



Department  
for Business  
Innovation & Skills

**New Eligibility Category for Higher  
Education Student Support**

**Government Response**

**APRIL 2016**

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# Introduction

On 29 July 2015 the Supreme Court issued a judgment in the case of R (Beaurish Tigere) v Secretary of State for Business, Innovation and Skills [2015] UKSC 57 [2015] 1 WLR 3820. This ruled that it would be unlawful to refuse Ms Tigere a student loan solely on the basis that she was not settled in the United Kingdom.

The Secretary of State decided to consult on the creation of a new category of eligibility for student support based on long residence in the UK.

The Consultation opened on 2 December 2015 for response by 30 December 2015. The deadline was extended to 8 January 2016 at the request of some respondents. The date was updated on Citizenspace and on the Department's Consultation page on 17 December 2016. Stakeholders, other Government Departments and the Devolved Administrations were notified of the extension at the same time.

The majority of the 136 responses received through Citizenspace were from individuals; with 8 responses from universities, colleges and schools; 11 from advocacy groups and a small number of stakeholder groups representing the higher education sector and students. A list of the type of respondent is included at page 16.

The Department met representatives of Just for Kids Law, Coram Children's Legal Centre, Student Action for Refugees, UKCISA on 15 December to discuss the consultation proposals.

Full consideration has been given to the responses and evidence provided. Responses received after the close of the consultation period have not been considered. 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 and inform the final decisions.

The full Equality Analysis is published alongside this response.

# Executive summary

The Supreme Court judgment in the case of R (Beaurish Tigere) v Secretary of State for Business, Innovation and Skills [2015] UKSC 57 [2015] 1 WLR 3820, handed down on 29 July 2015, declared that it was unlawful to refuse Ms Tigere a student loan solely on the basis that she was not settled in the United Kingdom. The effect of the Court's judgment was to require the Secretary of State to consider adopting more tailored criteria for eligibility for student support which would avoid breaching the Convention rights of other applicants in a similar position to Ms Tigere.

The Secretary of State decided to consult on the creation of a new category of eligibility for student support, which would be based on long residence in the UK and differentiated by the age of the student on entry to higher education.

On 16 September 2015 the Department published an interim policy for handling applications from young people in a similar position to Ms Tigere whilst developing a public consultation to seek views on what regulatory changes may be required. The interim policy was implemented to ensure that as many applicants as possible who were considered to be in an analogous position to Ms Tigere could access student support for higher education quickly following the judgment in the Supreme Court. The interim policy makes clear that the adoption of the interim measure is entirely without prejudice to any future position on eligibility for student support that the Secretary of State may decide to adopt at a future date.

In December 2015 the Department for Business, Innovation and Skills opened a consultation asking for views on a new category of support based on long residency, in summary:

- The introduction of a requirement for those students who are under 18 years of age and who are not settled in the UK to demonstrate seven years continuous residence in the UK;
- The introduction of a requirement that students who arrived in the UK as children and are aged 18-24 years and who are not settled in the UK should demonstrate they have lived continuously in the UK for at least half their life;
- What support there was for a rule allowing those who are aged 25 or above and not settled in the UK to become eligible for student support if they have been continuously resident in the UK for at least 20 years.

There were 136 responses, the majority of which were from individuals. There was general support for the proposal that a new long residency category should be introduced for young people aged 24 and under. There was also agreement that some sort of measure should be put in place to assess long residency but there was no consensus on what the measure should be.

The alternative options proposed were wide ranging. A number of respondents supported a measure that required applicants to meet the three year ordinary residence requirement

only or that they should satisfy a requirement for three, five or seven years residency in the UK.

The consultation also asked whether we should extend support to those aged 25 and over who had lived in the UK for 20 years. Many respondents were concerned about the marked difference in treatment between those aged 24 and those aged 25 years or over. Under the proposal a prospective student at age 24 would be required to have lived in the UK since the age of 12 whereas a 25 year old would have needed to have lived here since the age of 5.

We have carefully considered the responses received and listened to the concerns raised. We have decided that the new long residency eligibility criteria should be:

- Applicants aged under 18 years of age are required to have lived in the UK for at least 7 years (including three years' lawful ordinary residence before the first day of the first academic year of the course); and
- Applicants aged 18 years and above are required to have either spent at least half their life in the UK or at least 20 years in the UK (including three years' lawful ordinary residence before the first day of the first academic year of the course).

We plan to make the necessary regulatory changes before the 2016/17 academic year.

# Analysis of the Responses and The Government's Response

## Question 1 - A Summary of the Responses

Question 1 – Do you agree that it is reasonable to introduce a requirement that students who are under 18 years old and who are not settled in the UK should have to demonstrate seven years' continuous residence in the UK (including three years' ordinary residence immediately before the start of their course) in order to be eligible for student support?

There were 136 responses, the majority of which were from individuals. There were 60 respondents who supported the proposal and 75 who did not. One left the question response blank.

There was general agreement that those under the age of 18 should qualify for support for higher education, and that there should be some sort of measure in place to assess their eligibility, but there was no consensus on what the measure should be.

The alternative options proposed were wide ranging. Respondents' views included: those who had completed most of their schooling in the UK should automatically qualify for support, irrespective of their immigration status; to those who agreed some kind of more restrictive measure was reasonable, but thought that it should be less than seven years; that they should be treated the same as refugees who qualify for support as soon as they become refugees; some respondents considered that no one here illegally should qualify for support regardless of their age.

A substantial number of respondents supported a measure that required applicants to meet the three year ordinary residence requirement only. Conversely, other respondents considered that some young people became aware of their lack of immigration status only when applying to University, and the requirement of three years' lawful ordinary residence stopped them from going on to higher education with their peers.

Many explained their responses, believing that such young people should be considered an economic asset to the UK; they had worked hard and achieved good grades at school and should be allowed to progress onto higher education. They thought they should have access to higher education and to be treated the same as British Citizens, especially as they were unlikely to be able to pay for higher education themselves.

A number of respondents identified that their status in the UK was no fault of their own as they had entered as minors with their parents; and it was suggested that such persons would be unlikely to be aware of their immigration status. Those respondents indicated that in such cases, an inability to receive funding to access higher education could be considered discriminatory.

Concerns were raised about specific groups of young people, for instance:

- those who arrived in the UK as unaccompanied asylum seeking children;

- child dependants of those on a work visa;
- children who arrived aged 13 or 14, who would not qualify for support at the age of 18 as they would not have lived in the UK for seven years by then.

Many agreed with the proposal without qualification, but others expressed the view that requiring seven continuous years of residence, with the final three years being lawful residence, demonstrated a clear intention to remain in the UK and a high level of integration in British society. Many mistakenly thought the three years' lawful residence would run consecutively with the seven year requirement.

There were also requests for clarity about what constituted settlement and three years' lawful ordinary residence.

## Question 2 - A Summary of the Responses

Question 2- Do you agree that it is reasonable to introduce a requirement that students who arrived in the UK as children and are aged 18-24 years and who are not settled in the UK should have to demonstrate that they have spent at least half their life continuously resident in the UK (including three years ordinary, lawful residence immediately before the start of their course) in order to be eligible for student support?

86 of the 136 who responded, did not support this proposal. 47 respondents were in favour of this measure with 3 that did not respond to this question. Many agreed that it was reasonable to have a qualifying period before students could qualify for student support.

A few respondents commented about access to higher education being a right and considered that everyone deserved to have access to full support and access to education:

“Education is a Human Right. Not being able to have student support would be a massive barrier to these high achievers being (able) to access higher education. Many of these people will have spent the formative part of their lives in Britain. It seems wholly unreasonable for them to have spent half their life in Britain (in order) to access a British education.” Charity or social enterprise

“Student loans are repaid. And even in cases when they are not repaid, all money has gone to boost the economy.” Charity or social enterprise

A number of respondents suggested alternative options to the half-life requirement as proposed in the consultation document. The alternatives proposed were wide ranging: requiring three, five or seven years in the UK; having spent the last third of their life in the UK; completion of their education in the UK or secondary schooling; a more discretionary approach; or those soon to qualify for indefinite leave to remain should be able to access support. Many respondents thought that the measure should be the same for all students regardless of age, but that the half-life requirement was too great. There was no consensus on what the measure should be.

A significant number considered that a requirement of three years lawful ordinary residence was a barrier, as many prospective students would be unaware of their immigration status and had only just become old enough to legitimise their immigration status in their own right. Some respondents held the view that a grant of discretionary leave by the Home Office because of their long residence should be sufficient to allow automatic access to student support. Holding such leave should, in these respondents' view, negate the need for three years lawful ordinary residence prior to entering higher education. It was thought the requirement of half-life was arbitrary and when combined with the requirement of three years ordinary residence created an unacceptable delay in accessing higher education. It was argued that such delays could have an unreasonable impact on their employability.

There was some concern that the child was being held responsible for the actions of their parents. Students would be unlikely to be able to produce key documentation to support their claim as they were young children when key decisions were made by their parents and the Home Office. There was also concern for those who arrived as unaccompanied children seeking asylum in the UK, who did not have any parental support, and it was thought that the Local Authority may not fulfil its legal obligations to legitimise their status, or help them with education costs.

Some concern was expressed that not all types of leave to remain was considered within the new proposal, and that it was linked to long residency only, rather than other legitimate claims which would allow an individual to remain here.

"I am a Tier 1 general migrant. My daughter has been here for 7 years and spent the last three years at school here. She has not spent half her life here as she came with me when she was 10 as my dependent. I pay all my taxes and am a responsible citizen. This ruling discriminates against the child." Individual

On the contrary, some respondents continued to think that individuals should be settled before they qualify for support.

47 respondents supported the half-life rule proposed in the consultation. They considered it to be a fair requirement as it demonstrated a strong connection with the UK, and a clear rule for administration purposes. The requirement would prevent inequality and delays in assessing support applications, which could arise as a result of a more discretionary approach, which was supported as an alternative to the half-life requirement by some respondents:

"Where students do not have settled status, a requirement that they have spent at least half their life in continuous residence in the UK would seem reasonable as an alternative way to demonstrate a commitment and strong connection to the UK such that they could be eligible for higher education support. We would prefer such a specification to a discretionary system where individual assessment would take place because this would produce a wide range of variables which could result in each student being considered individually and thus possibly treated differently/unequally." University

"Such a (discretionary) system would require long lead in times for decisions on individual students' eligibility." University



Some respondents identified the barriers created as a young person moves from one category to the next as being unreasonable.

## Government Response to Questions 1 and 2

Successive Secretaries of State have considered that the settlement requirement is the most effective and fair way for individuals to demonstrate a fundamental connection to the UK, which in turn suggests they are likely to remain here and make a long term contribution to the UK economy and society. The Secretary of State remains of the view that settled status remains an effective way of demonstrating that fundamental connection. However, in light of the Supreme Court judgment, the Secretary of State accepts that this connection could also be demonstrated if someone has been here a long time as a simple matter of fact.

There appeared to be some confusion around the meaning of settlement in the minds of some respondents. Being settled in the UK means there must be no restrictions on the time an individual can remain here, in accordance with the Immigration Act 1971, rather than simply being present for a considerable period of time in the UK.

In principle, individuals who have lived in this country a long time could be provided with student support through the exercise of a new discretionary power within the Regulations, which would enable the Secretary of State to make students eligible where he considers there to be a risk that, given their long residence in the UK, their human rights would otherwise be breached by refusing student support. For those students who are not settled in the UK and who believe they were in that position, an individual assessment of their personal circumstances and immigration status would need to be undertaken, including verification of any evidence.

The Secretary of State considers that such a discretionary system would be costly to administer and could lead to arbitrary decisions based on the many and variable circumstances of family connections, dependants, employment, commitments and community and other ties. It would require a different skillset for administrators and would be difficult to deliver for any sizeable number of people who, because of the academic cycle, would nearly all be applying at the same time of year. It would also require significant resource to administer such a system, which would be an inefficient use of public funds.

It is important that eligibility criteria are clear and transparent so that students, institutions and administrators understand them and can reliably base their plans and decisions upon them. In particular, students need to know whether they will qualify for student support when they start considering which A level (or equivalent) courses to study and whether and when to apply to universities.

The preferred option in the consultation was to create a new long residency eligibility category to sit alongside existing categories. In all cases the person would also need to satisfy the long-standing three years' ordinary lawful residence requirement immediately before the start of their course in line with other applicants for student support. The new category proposed included:

- those under the age of 18 who had come to this country as children and who are not settled in the UK should have to demonstrate seven years' residence in the UK; and
- those who arrive in the UK as children and are aged 18 to 24 years and who are not settled in the UK should have to demonstrate that they have spent at least half their life in the UK.

The requirements are similar to paragraph 276ADE(1) of the Immigration Rules applied by the Home Office for the grant of leave to remain on grounds of private life, which takes account of length of residence in the UK. This rule was referred to by Lord Hughes in his judgment in the Tigere case, as an example of a workable policy that took account of length of residence. This provides a clear and consistent approach to determining long residence.

There were a number of respondents who considered access to higher education a right. Unlike the right to access statutory education for children in England, access to higher education is not guaranteed. It is a matter of choice. Individuals must meet the admissions standards set by universities and colleges and there is a requirement to pay the relevant tuition fee costs.

The social and economic benefits of higher education are recognised and accepted by Government and funding is provided to eligible students, but there is a cost to the public purse of providing such support. The Secretary of State has a responsibility to ensure that the financial support it gives to students is carefully targeted, particularly in the present economic climate

Less than 1% of applicants in 2015 applied to university when aged under 18, that is when they are still children. The Secretary of State considers, just as is the case with paragraph 276ADE(1) of the Immigration Rules, that it is reasonable to impose a lower qualification period on such persons. The introduction of a requirement of seven years' residence for those aged under 18, who will need to have entered the UK at 10 years of age or earlier.

The new eligibility category for 18-24 years olds proposed in the consultation would require that they had lived in the UK for at least half their life, that is, they would need to have entered the UK aged at least between 9 and 12 years of age, depending on their age on applying for higher education, before they qualify for support. By far the majority of students are aged 18 years or over by the time they start their course in higher education.

It is not our intention to make those who are in the UK on a temporary basis eligible for support, as such persons may not remain in the UK permanently. This change will not therefore apply to those categories of persons, and their dependants or family members, who are here on a temporary basis only; including for the purposes of, for example, receiving full-time education or work. Those in the UK on skilled migrant visas for instance, have a shorter route of five years to settlement and it is reasonable to expect that those who wish to remain here will ensure that they and their dependents gain settlement at the earliest opportunity. Thus ensuring they are able to enter higher education with their peers through the existing settlement category where that applies.

Some respondents raised concerns about those seeking asylum here, including unaccompanied asylum seeking children. Those who hold refugee status or have been granted humanitarian protection in the UK, and who are resident in England are already eligible for student support.

Individuals who arrive in the UK and claim asylum as children but whose claim is refused, may be granted leave for a period of 30 months or until they are 17.5 years of age (whichever is the shorter) if they cannot safely be returned to another country. At the age of 17.5 they can apply to the Home Office again, either for refugee status or in another capacity, and the Home Office will determine what their status will be.

We expect that unaccompanied asylum seeking children who do not have refugee status or humanitarian protection, may in future qualify for student support under the new eligibility category for those with long residence, albeit they will need to satisfy the relevant eligibility requirements under the student support rules in the same way as any other applicant.

Several respondents thought that the three year lawful ordinary residence requirement would run consecutively to the requirement of seven years or having lived here at least half their life. This has never been the Secretary of State's intention; applicants under the new eligibility criteria will simply need to demonstrate lawful leave to remain throughout the three years prior to the first day of the first academic year of their course. The need to satisfy the requirement for three years lawful ordinary residence has been in place since the 1960's and is in line with that required of all other categories (except refugees). The Supreme Court unanimously upheld the lawfulness of this requirement in the Tigere case.

### **Question 3 - A Summary of the Responses**

Question 3- Would you support a rule allowing those who are aged 25 or above and who are not settled in the UK to become eligible for student support if they have been continuously resident in the UK for at least 20 years (including three years' ordinary lawful residence immediately before the start of their course)?

56 of the 136 respondents supported the proposal that an individual aged 25 and above should be required to live in the UK for at least twenty years before they could qualify for support. 75 of the respondents did not support it as they thought it was too high a barrier and directly discriminated against mature learners. There were 5 respondents who left this question unanswered.

Many respondents highlighted the fact that this rule, when placed alongside the proposal for those aged 18 to 24 would create a cliff edge for those aged 25 years and above. A 24 year old would be required to have lived in the UK since the age of 12 or earlier; whereas a 25 year old would be required to have lived in the UK since the age of 5 or earlier. This was considered to be excessive, unfair and discriminatory.

As with the earlier questions, some respondents suggested alternative periods of time were suggested: three years; the same for all age groups, for instance seven years or half-life; or ten to fifteen years.

It was suggested that mature applicants would be in a better position to repay their student loans and may already have made a substantial contribution to the economy and society. In doing so they would have demonstrated a stronger commitment to the UK, than a much younger person who was required to have lived in the UK a much shorter period of time. Conversely it was suggested that more mature applicants would have a shorter working life and therefore find it more difficult to pay back all of their student loans.

Concerns were also raised about the impact on skills shortages, in that it could affect the supply of older students applying for university and in particular courses that are currently NHS funded.

There were concerns that a grant of leave made by the Home Office does not always correspond with the first day of the first academic year of the course.

Some respondents thought that student support for those aged 25 and over should be limited to UK nationals. It was thought that only those who are here legally, and have been living and working here for a considerable number of years should qualify for support. After being here for so many years they would be part of British society and it was reasonable to expect they may choose to become settled in the UK. Such individuals would be unlikely to leave the UK after benefiting from a higher education. The point was made that at the age of 25 they are adults and are responsible for their actions, including legitimising their status here, if they intend to enter higher education.

### **Government Response to Question 3**

We were persuaded by the argument respondents made about the marked difference in treatment between those aged 24 and those aged 25 or over, which would require them to have spent a substantially longer period in the UK. We have therefore amended the policy to take account of these concerns and decided that those aged 25 years or over should be required to have lived here at least half their life or for 20 years whichever is achieved first.

We are therefore intending to introduce a single rule for adults which will be:

Applicants aged 18 and above are required to have either spent at least half their life in the UK or at least 20 years in the UK.

As with all other categories, three years of lawful ordinary residence remains a requirement as this forms an established component of the student support eligibility criteria.

Leave to remain will not be granted by the Home Office in line with the rules determining eligibility for student support. It is reasonable to take the view, as some respondents did, that an adult who has been in the UK for a long time has had the opportunity to formalise his or her status and gain settled status within the Immigration Rules and under the Immigration Act 1971 and should have done so if it is their intention to enter higher education. This would ensure that they meet the necessary requirements for three years' lawful ordinary residence prior to the first day of the first academic year of their course.

Mature students continue to form an increasing proportion of students in higher education including on NHS funded courses. Currently, healthcare courses, such as physiotherapy

and nursing are NHS funded courses and students apply for an NHS bursary. The eligibility rules for the NHS Bursary scheme follows the criteria set out in the student support regulations. The Department of Health currently has a similar, but not identical interim policy for those with long residence to that implemented by the Department for Business, Innovation and Skills. The Department of Health are also considering the consultation responses. However, as announced in the 2015 Spending Review, it is the intention that from 2017/18 all new nursing, midwifery and allied health students will be moved onto the same student loans system of support as the generality of students.

There is no evidence to suggest that mature students are less likely to repay their student loans than younger applicants. It is the expectation that all applicants who receive a student loan commence repayments in due course. The same rules apply to all students irrespective of age, but no one has to repay their loans before they have left their course and their earnings are in excess of a specific threshold currently set at £21,000. Some individuals may choose to repay their loans at a faster rate and voluntary payments can be made at any time.

## Questions 4, 5 and comments- A Summary of the Responses

Question 4 – Can you supply any additional information in support of or against these proposed extensions of eligibility, including any statistical data, or unintended consequences for other cohorts or sub-groups?

Question 5 – Can you supply any evidence that the policy proposal will have any equality implications and affect persons with a protected characteristic? Protected characteristics in The Equality Act 2010 are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

Any other comments – Do you have any other comments that might aid the consultation process as a whole?

Although more than 100 of the respondents entered text in response to one or more of the three questions, most reiterated the points they had made in earlier responses to questions 1 to 3. None of them supplied substantive further evidence, data or analysis to support their views. The majority of the responses were illustrations of the impact of the proposals, either on the individual providing the response, or case studies were supplied by education providers or advocacy groups.

In addition to the points raised in responses to questions 1 to 3 the following issues were raised:

- That the proposals may discriminate against disabled people and young people with caring responsibilities, who may have progressed more slowly through education.
- A delay in entry to higher education may result in more mature entrants and as a result an increase in the numbers dropping out of their courses.
- Third country nationals from outside the EEA and who were considered most likely to be discriminated against by these proposals.

- Application of the rule retrospectively or meeting the criteria during a course.
- Difficulty of providing evidence of long residency.

## **Government Response to questions 4 and 5**

Our response addresses these issues in the order they are identified above.

### **Disability and caring responsibilities**

Those with a disability, or illness and caring responsibilities, have the same opportunities to enter higher education as other applicants. They are required to meet the same entry requirements and eligibility criteria as other applicants applying for student support and to benefit from the proposed eligibility criteria which will enable them to benefit from student funding. In addition, disabled support allowances are available to eligible students to help them with their studies and child care and dependents grants are available to those with children or other caring responsibilities.

The equalities analysis undertaken on this policy change found there was no evidence to suggest that the proposed new eligibility category favours either those who have a disability or those that do not have a disability.

### **Mature students dropping out of courses**

There were concerns about non-continuation rates amongst those entering higher education later than their peers and issues linked to later entry due to disability or caring responsibilities. Although there is a higher drop-out rate amongst more mature applicants, more generally, this is not usually because they enter higher education later, but they frequently cite personal issues including finances, caring responsibilities or juggling work and study as reasons for withdrawing from their studies.

### **Third country nationals**

The equalities analysis undertaken on this policy change found that the group of individuals who could potentially benefit from student support through the new eligibility category are on balance, more likely to be from the Africa Sub-Saharan, Asia Central, Europe Other and Middle East regions.

### **Application of the rule retrospectively and meeting the criteria mid-course**

There are no plans to apply the new long residency criteria retrospectively. Students qualifying under the new criteria will, like all other students need to meet the eligibility test on the first day of the first academic year of the course to qualify for support for that year. Students will not become eligible in the event they meet the new criteria subsequent to starting their course, such treatment is the same as that applied to those who are settled in the UK.

### **Evidence requirements**

The onus, as always, will be on the individual to provide all necessary information to demonstrate their residency status and lawful residence in the UK, to the Student Loans Company when they apply for student funding in England. Those who entered the UK as minors and who are unable to confirm their entry date to the UK will need to gather evidence from teaching or medical professionals or other appropriate sources to support their claim of residence in the UK on their application. Any information supplied by a student will be verified by the Student Loans Company with the Home Office and possibly schools or other sources where that applies.

## **Regulatory Change and Guidance**

It is necessary to amend the Student Support Regulations to ensure that eligible students with long residence qualify for support. The Qualifying Courses and Persons Regulations and Fees and Awards Regulations will also need to be amended to ensure that higher education institutions award home fee status to student qualifying under the new criteria. As will the Education (Fees and Awards) (England) Regulations 2007, which enable higher education institutions to charge higher fees to people who do not fall within that Regulations schedule of eligible persons. Guidance will be issued to higher education practitioners and information about the eligibility criteria will be made publicly available on [www.Gov.uk/studentfinance](http://www.Gov.uk/studentfinance).

# List of respondents

Type of Respondent	Number
Individuals	94
Sector Bodies/Charities-	16
Unnamed	
Association of School and College leaders (TU staff Assoc.)	
Asylum Welcome	
Centrepoint	
Gloucester Action for Asylum Seekers and Refugees x2	
Let us Learn	
Million +	
NASMA	
NUS	
Office for Fair Access	
Project for the registration of Children as British Citizens	
Refugee Support network	
Royal College of Midwives	
Student Action for Refugees	
UKCISA	
Schools/Colleges –	6
Unnamed School	



Type of Respondent	Number
Blackburn College	
St Peters High School	
St Peters Roman Catholic School and Sixth Form Centre	
York College	
Wyke Sixth form College	
HEIs	13
Unnamed University	
Bournemouth University x2	
Canterbury Christchurch University	
Keele University	
Loughborough University	
Manchester Metropolitan University	
St Marys University	
Teeside University	
University of Exeter	
University of Leeds	
University of Sheffield (Students Union)	
University of Winchester	
Law Firms /Representative	7
CLS	
Coram Children’s Legal Centre	
Hamlet Solicitors LLP	

Type of Respondent	Number
Howe and Co. Solicitors	
Islington Law centre	
Just for Kids Law	
Law Firm Ltd	
Total	136

# Annex

## Interim Policy published following the Supreme Court ruling in the case of Ms Tigere

The Department is giving full consideration to the Supreme Court's ruling of 29 July 2015 (on the application of Tigere) (Appellant) v Secretary of State for Business, Innovation and Skills (respondent) 2015 UKSC57. The adoption of the policy set out below is an interim measure: it is entirely without prejudice to any future position on eligibility for student support that the Secretary of State may decide to adopt at a future date.

In that regard, the Department will soon be launching a public consultation to seek views on what regulatory changes may be required in light of the ruling.

As an interim policy measure, the Secretary of State intends to use an adaptation of the Immigration Rule 276ADE(1) (as proposed by Lord Hughes's judgment in the Supreme Court's ruling) when considering post-Tigere applications for exceptional student support.

The Department will consider these individual cases against the following criteria:

- those under 18 years of age to have lived in the UK for at least 7 years;
- those aged 18-25 years spent at least half their life in the UK;
- is ordinarily resident in England; and
- has been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding the first day of the first academic year of the course.

The Department plans to amend the Student Support Regulations during this academic year such amended regulation would supersede this interim policy.



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