



Department
for Education

Equality Analysis of the Education (Student Fees, Awards and Support) (Amendment) Regulations 2021

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Introduction

Under the Equality Act 2010, the Department for Education (DfE), as a public authority, is legally obliged to give due regard to equality issues when making policy decisions – the public sector equality duty, also called the general equality duty. Analysing the effects on equality of these policy proposals through developing an equality analysis is one method of ensuring that consideration of equality issues feeds into policy formation and informs Ministers' decision making.

DfE as a public authority, must in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard to the need to:

- a) Remove or minimise disadvantages suffered by persons with protected characteristics;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic; and
- c) Encourage individuals who share a relevant protected characteristic to participate in public life or in any other activity in which participation by those individuals are disproportionately low.

The general equality duty covers the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

To date we are yet to find evidence to suggest that the characteristics of gender reassignment, pregnancy and maternity and sexual orientation have an impact of the likelihood of a student to receive certain student support products beyond the assumption that pregnant women or mothers would be more likely to receive or go on to receive certain targeted grants designed to support those with dependants or childcare. In the main, EU nationals domiciled in the EEA and Switzerland who come to the England for the purposes of study are not eligible for such targeted grants unless they are workers, and so the differential impact of this will be small. There is also no robust data collected on religion or belief at undergraduate level and so there are limitations in assessing the effect of policy changes for 2021/22 on different religious groups.

The Department of Education is amending its regulations so that EU, other EEA and Swiss nationals (other than those with citizens' rights) starting courses from 1 August 2021 and beyond will no longer have access to home fee status and student finance.

As these amendments relate to those living in the EEA and Switzerland, it is likely they will affect persons on the basis of nationality, which falls under the protected characteristic of race. We do not collect data on ethnicity, and there are significant limitations on ethnicity data as reported by the SLC, as students are not required to declare it; however, an indication of impacts may be inferred by the home domicile of the students studying in England, that is, those domiciled in the EEA and Switzerland are more likely to be of a different nationality to domestic students.

These impacts arise from the UK's decision to exit from the EU. Now that the UK has left the EU and will no longer have the legal obligations of membership, it is fair to place EU, other EEA and Swiss students not covered by the Withdrawal Agreements on the same footing as other countries whose citizens do not benefit from home fee status and access to student finance.

This policy change will standardise the rules which govern the rights of international students to access home fee status and student financial support.

Any queries or comments about this Equality Analysis should be addressed to: Linda Brennan, Department for Education, Great Smith Street, London, SW1P 3BT, linda.brennan@education.gov.uk

Summary of equality impact across the proposed amendments

English system prior to amendments

Support for tuition costs and home fee status are provided to ensure that finance is not a barrier to entry into higher education for those meeting residency requirements. The intention is that no eligible student should be deterred from attending higher education on the grounds of affordability; that attendance in higher education is based on the ability to learn, not the ability to pay; and that spending power is placed in the hands of the students.

To comply with legal obligations under EU law as it applied before the end of the Transition Period, the Department for Education provides support to EU, other EEA and Swiss students on broadly the same basis as available to UK nationals. As a result, these students benefit from home fee status and tuition fee loans after three years' residence in the EEA and Switzerland, and maintenance loans, after five years' residence in the UK and Islands (unless they are EEA/Swiss migrant or frontier workers, self-employed persons or their family members, who require three years' residence in the EEA and Switzerland only to access maintenance support). As education is devolved, the precise entitlement to student support differs across the different parts of the UK.

This student financial support system will continue to the end of academic year 2020/21 (31 July 2021).

Background to, and the case for changes to student finance

The UK's exit from the EU took place on 31 January 2020. As a consequence of EU Exit, the Government will no longer have a clear justification to provide home fee status and student financial support in England for courses starting in academic year 2021/22 to EU, other EEA and Swiss nationals who are not covered by the citizens' rights provisions in the Withdrawal Agreements (the EU Withdrawal Agreement, EEA-EFTA Separation Agreement and Swiss Citizens' Rights Agreement).

The transition period following the UK's exit from the EU ends on 31 December 2020. Free movement of EU, other EEA and Swiss nationals and UK nationals will continue until the end of the transition period, and from 1 January 2021, post-EU exit immigration rules will apply. DfE is applying a continuity approach to the end of academic year 2020/21 when changes to eligibility categories will apply.

This policy change will standardise the rules which govern the rights of international students to access home fee status and student financial support. It provides greater clarity to those persons who are eligible and not eligible to access home fee status and

student finance and creates an equitable system for students outside the UK when they apply to study a course at English HE and FE providers.

Loan support for EU, other EEA and Swiss students involves a taxpayer subsidy, which was previously justified on the grounds that EU membership required them to be treated equally with UK nationals, and the associated benefits accrue to the UK economy and offset the cost. There are significantly fewer UK students studying in EU member states versus EU students coming to the UK to study. Some 140,000 EU domiciled students are enrolled in UK higher education – about 6% of all undergraduate students¹, and around 18,000 UK students are on full HE courses in the whole of the EU². The costs to the UK are therefore significantly higher than the costs to other EU member states.

Not all student loans are paid back in full. There is a cost to the Exchequer from EU students taking out student loans. This analysis assumes that the Resource Accounting Budget (RAB) charge for EU students is the same as the entire loan population, that is 53% for undergraduates and 0% for postgraduates³. There is no separate EU calculation for the RAB charge. Whether the RAB for EU students is lower or higher than the general population is uncertain. On the one hand, the loan outlay tends to be smaller for EU students, so they are more likely to pay off their loan in full. On the other hand, EU students are more likely to live abroad and be in arrears.

Approximately 3 out of 10 EU domiciled students that remain in the UK are in sustained employment after graduating⁴. The economic rationale for EU, other EEA and Swiss students' access to loan support was previously predicated on their ability to join the workforce without restriction due to EU free movement rights, and as a result contribute to the economy and the Exchequer. Now the UK has left the EU this is less likely to happen to the same degree and there is no legal requirement to give equal treatment (save for persons covered by the Withdrawal Agreements).

In general, it is harder to recover loan payments from EU, other EEA and Swiss students as many return to their home state. Repayment of loans is usually arranged through the UK tax system but is less effective for those living outside the UK as the Student Loans Company (SLC) relies on alternatives which are not as efficient.

¹ HESA, 2018/19 <https://www.hesa.ac.uk/data-and-analysis/sb255/figure-8>

² UNESCO <http://uis.unesco.org/en/uis-student-flow>

³ <https://explore-education-statistics.service.gov.uk/find-statistics/student-loan-forecasts-for-england/2019-20>

⁴ 31% of EU domiciled students that remain in the UK are in sustained employment only, three years after graduating. DfE Graduate Outcomes 2017/18.

<https://www.gov.uk/government/statistics/graduate-outcomes-leo-2017-to-2018>

If the UK Government were to continue to offer access to student finance to EU, other EEA and Swiss nationals not covered by the Withdrawal Agreements now the UK has left the EU, it would not be fair to other international students on the basis that there is no longer clear justification for providing preferential treatment to EU, other EEA and Swiss nationals.

The broad objectives of the changes are to:

- Reflect the changes following the UK's exit from the EU
- Ensure EU, other EEA, and Swiss nationals can apply for home fee status and student finance if they are covered by Citizens' Rights and meet the eligibility requirements.
- Create an equitable system for international students, that are living outside the UK, including increased parity between the treatment of EU, other EEA and Swiss students and other international students.
- Reduce the taxpayer subsidy in terms of the RAB that is not repaid by EU, other EEA and Swiss nationals living outside the UK.
- Deregulate the limit on fees that English HE and FE providers can charge in relation to students not covered by Citizens' Rights and allow them to determine the appropriate fee rate.

The proposed amendments will be implemented through regulations and will require an update to the eligibility categories for home fee status and those who have access to financial support from Student Finance England. The Student Loans Company will update its systems to comply with the amended regulation.

Policy changes for 2021/22

The groups who will no longer be eligible for student finance from academic year 2021/22, unless covered by citizens' rights, include:

- EU nationals and their family members domiciled in the UK, EEA, Switzerland or overseas territories, with the exception of Irish citizens domiciled in the Common Travel Area of UK, Islands and Ireland.
- Other EEA and Swiss nationals, and their family members, coming to the UK for the purposes of work.
- Children of Swiss nationals where the latter are living, but not working in the UK.
- Children of Turkish workers where either or both arrive in the UK after the end of the transition period, and where the parent does not have leave to remain.

There are a number of groups who are not covered by citizens' rights, and who continue to be eligible for student finance, but for whom that eligibility may be directly or indirectly affected by changes resulting from EU Exit, including:

- Persons who are granted settled status under the EUSS who will be eligible for home fee status and student support subject to meeting the relevant residency requirements.
- Irish citizens living in the UK and Ireland whose right to study and to access benefits and services will be preserved on a reciprocal basis for UK and Irish citizens under the Common Travel Area arrangement.
- Family members of persons of Northern Ireland, who do not have citizens' rights under the EU Withdrawal Agreement but who may be granted pre-settled status.
- UK nationals (and their family members) living in the EEA or Switzerland wishing to undertake Higher and Further Education courses in the UK commencing before 1 January 2028.
- UK nationals ordinarily resident in Gibraltar who will continue to be eligible indefinitely for home fee status, and for tuition fee support if starting courses before 1 January 2028.
- UK nationals ordinarily resident in the British overseas territories (other than Gibraltar) who will be eligible indefinitely for home fee status
- UK nationals ordinarily resident in the EU overseas territories who meet the residency criteria will be eligible for home fee status for courses starting in England before 1 January 2028.
- Students from the Crown Dependencies who move to the UK for purposes other than undertaking a course will continue to be eligible for home fee status and capped fees. Additionally, from the 2021/22 academic year students from the Crown Dependencies, who come to England solely for the purposes of higher or further education study, will be eligible for home fee status subject to meeting the residency requirements.

The changes will remove eligibility for home fee status and access to undergraduate and postgraduate financial support and advanced learner loans from Student Finance England for EU, other EEA and Swiss nationals not covered by the Withdrawal Agreements from the 2021/22 academic year, and also for children of Turkish workers arriving after the end of the transition period. This allows the Government to achieve its policy objectives to meet the current EU principles of equal treatment for those covered by citizens' rights provisions in the Withdrawal Agreements.

Overall, the proposed changes will have an equality impact on those student groups who currently qualify for home fee status and student finance, who from 2021/22 will no longer be eligible as a result of the UK's exit from the EU. This impact needs to be weighted against the case for these changes being made, as set out above. That case includes, in particular, the need to reduce the taxpayer subsidy that is not repaid by EU, other EEA and Swiss nationals living outside the UK, and to create an equitable system for international students in light of the UK's exit from the EU.

Personal characteristics of student support recipients

The proposed amendments to be made will remove access to student finance so that EU, other EEA and Swiss nationals will no longer be eligible for home fee status or student finance. Accordingly, we expect a change to the current equalities position.

By comparing the profile of each eligibility category where changes are being made against that of the undergraduate full-time maintenance loan claimant population, it is possible to determine the extent to which protected groups in each of the different claimant populations are under, over or proportionately represented.

We use the undergraduate full-time EU student population as the basis for comparing the profile of protected characteristics of different product groups (see Annex A). This is because it reflects the largest number of claimants which means it is more likely to be representative of the whole student population. In academic year 2018/19 there were 55,300 EU domiciled undergraduate full-time students receiving a tuition fee loan⁵.

There is a lack of data to predict the impact on other EEA and Swiss students. This is due to these persons only being eligible for student finance and home fee status if they are a migrant or frontier worker, self-employed person or a family member thereof. Other EEA and Swiss nationals who do not fall into this category (or one of the other eligibility categories), and who do not have settled status, are not eligible for home fee status and student finance. EU-domiciled students are therefore used as a proxy to estimate the number of students in scope of the policy changes.

The analysis focuses on age, gender/sex and disability. While there are significant limitations on ethnicity data as reported by the Higher Education Statistics Agency (HESA) (students are not required to declare their ethnicity), we look at domicile as a proxy for nationality and ethnicity.

Age

Available data on the protected characteristics by nationality/ domicile suggests that older EU nationals are likely to be negatively impacted compared with younger students.

On average, students that are EU domiciled are proportionately younger than UK domiciled and students overall, with approximately 21% of EU domiciled students at English HEIs aged 25 and over compared with 31% for UK domiciled students. However, the average age of EU domiciled students is high. One of the reasons for this could be

⁵ Student Loans Company, Student Support for Higher Education in England 2020
<https://www.gov.uk/government/statistics/student-support-for-higher-education-in-england-2020>

that EU domiciled students have a higher proportion of students studying at the postgraduate level than the UK or the sector as whole. 20% of UK domiciled students at English HEIs are studying at postgraduate level compared to 31% of EU students and 50% of non-EU students.

Gender/sex

Annex A shows that EU domiciled female students are slightly underrepresented compared to the total student population – 56% of students from the EU are female compared to 57% overall. However, they are overrepresented in terms of the EU population who currently come to England to study HE courses. There will therefore be slightly more impact on female than male students as a result of our policy. Note that, while in the overall population, female students are generally over-represented as claimants of childcare grant and parents' learning allowance, those domiciled in the EEA or Switzerland do not generally qualify for such grants, and so we do not expect there to be any particular impact on females domiciled there from removing access to this support.

Disability

SLC does not require a student to declare whether or not they have a disability. Students domiciled in the EEA and Switzerland are not eligible for Disabled Students Allowance so we are not able to use that as a proxy.

HESA data (Annex A), however, shows us that students with a declared disability are underrepresented – 4% of non-EU and 7% of EU-domiciled students have declared a disability compared to 14% overall. We therefore do not expect EU students who have declared a disability to be significantly impacted by these changes.

Ethnicity and nationality

While there are significant limitations on ethnicity data as reported by the SLC (students are not required to declare their ethnicity), we look at domicile as a proxy for nationality.

These changes will have an impact on all those that are not covered by the Withdrawal Agreements, in particular a high number of EU nationals domiciled in the EEA and Switzerland who may wish to pursue HE and FE in the UK in future. As a result the equality impact relating to nationality is proportionately high. However, the number of non-EU international students, who are not generally eligible for home fee status or student finance, stands at 288,000, or 15% of the student population at English Providers. Therefore, the equalities impact on EU nationals, and the policy to equalise access for those for whom we have no legal obligation nor rationale to continue funding

has been considered alongside, and balanced against the position in relation to other international students.

Summary of equality impacts across the proposed changes for academic year 2021/22

We expect the proposed amendments will most likely have a negative impact on EU nationals on the basis of their nationality, if they are domiciled in the EEA and Switzerland. They will also have a negative impact on older EU national students who are not covered by the Withdrawal Agreements, with those studying at postgraduate level proportionately more affected. We do not expect EU students who are female (who are slightly overrepresented as a result of these changes) or who have declared a disability to be significantly impacted by these changes.

There is a lack of data to predict the impact on other EEA (Norwegian, Icelandic, Liechtenstein) and Swiss students. This is due to these persons only being eligible for student finance and home fee status if they are a migrant or frontier worker, self-employed person or a family member thereof. Other EEA and Swiss nationals and their family members who do not fall into this category (or one of the other eligibility categories), and who do not have settled status, are not eligible for home fee status and student finance. While those not covered by the Withdrawal Agreements will therefore be impacted on the basis of their, or their family members' nationality, the number of those currently benefiting from student support is very small and as such, the equality impacts are assessed to be insignificant. This is a similar situation for children of Turkish workers.

With regard to EU nationals resident in the overseas territories, our assessment is that although protected groups of EU nationals who will be affected by our proposed position are slightly over represented, namely gender/sex (females), the impact of the amendments will not differ on the basis of these protected characteristics. Given the limited numbers of students involved, the equality impacts are likely to be insignificant.

Since these amendments will remove access to student finance for EU, other EEA and Swiss nationals not covered by citizens' rights, there are number of routes they may choose to adopt:

- 1. Proceed:** Undertake HE study in England without receiving home fee status or any student support from Student Finance England, but potentially in receipt of funding from other sources such as their own Governments.
- 2. Go elsewhere:** Take up HE study outside the UK where access to education can be obtained on the same basis as domestic nationals e.g. their own, or another state within the EEA or Switzerland, or the EU overseas territories, or other international countries.
- 3. No go:** Choose not to participate in HE study.

While, in the main, the impact on these groups is likely to be high on the basis of nationality due to where they are domiciled, we think it is unlikely, on balance, that the

removal of home fee status from persons affected would result in a decision not to participate in HE at all. EEA and Swiss nationals are likely to be able to access favourable fee status/support elsewhere in the EEA or Switzerland, and this is likely to influence their location of study.

Analysis of proposed policy changes

EU-domiciled students are used as a proxy to estimate the number of students in scope of the policy changes. These are students with a permanent address in the EU prior to entering their course⁶.

The analysis focuses on the impact of the policy changes on EU students studying at HEIs. EU students are examined across all levels and modes within HE, but those studying at FECs and APs are excluded from this analysis. There is currently limited student and tuition fee data available for non-HEIs, and therefore, it is difficult to estimate the impacts of removing home fee status and access to HE student finance. The impact of excluding these providers on the overall figures are likely small. Using a variety of sources available, the Department for Education's best assessment is around 95% of all EU undergraduates and postgraduates study at HEIs⁷.

Categories no longer eligible for home fee status and/or student finance from academic year 2021/22

EU nationals domiciled in the EEA and Switzerland (other than Irish citizens in the Republic of Ireland)

These eligibility categories will be removed for students who start a course from academic year 2021/22 unless they are covered by the Withdrawal Agreement and meet the relevant residency requirements.

The following data shows the number of EU domiciled students at English Higher Education Institutions (HEIs). In AY 2018/19, there were 112,460 EU domiciled students (undergraduates and postgraduates) studying at English HEIs. They represent 5.8% of the 1,942,535 students studying at English HEIs in 2018/19.

Table 1: Student enrolments at English HEIs in 2018/19 by domicile

UK	1,542,030	79.40%
Other European Union	112,460	5.80%
Non-European Union	287,970	14.80%
Not known	70	0.00%
Total	1,942,535	100.00%

⁶ See <https://www.hesa.ac.uk/support/definitions/students> for definition.

⁷ A combination of HESA (<https://www.hesa.ac.uk/data-and-analysis/students>), HESES (<https://www.officeforstudents.org.uk/data-and-analysis/data-collection/heses/>) and SLC (<https://www.gov.uk/government/organisations/student-loans-company/about/statistics>) data is used.

In terms of protected characteristics, HESA only has robust data available for age, gender/sex, and disability. There are some differences between the UK and EU national population that should be noted. Annex A and B illustrate the following:

- On average, students that are EU domiciled are proportionately younger than UK domiciled and students overall, with approximately 21% of EU domiciled students at English HEIs aged 25 and over compared with 31% for UK domiciled students. However, the average age of EU domiciled students is high. One of the reasons for this could be that EU domiciled students have a higher proportion of students studying at the postgraduate level than the UK or the sector as whole. 20% of UK domiciled students at English HEIs are studying at postgraduate level compared to 31% of EU students and 50% of non-EU students.
- Female students are slightly underrepresented compared to the total student population– 56% of students from the EU are female compared to 57% overall.
- Students with a declared disability are underrepresented – 4% of non-EU and 7% of EU-domiciled students have declared a disability compared to 14% overall.

There are significant limitations on ethnicity data as reported by the SLC (students are not required to declare their ethnicity). We can consider domicile as a proxy for nationality.

In academic year 2018/19 around 112,000 EU students were enrolled at HEIs in England, which is 6% of total student population. Of these 78,000 were undergraduates and 35,000 were postgraduate. Approximately 74% of eligible EU full-time undergraduate students⁸ and 17% of EU postgraduates take out student loans⁹. In 2018/19, EU students received £520m in English student support. Loans to EU borrowers represent 3% of total HE student loans¹⁰.

While EU students comprise only 6% of the total student population, these changes will have an impact on all those that are not covered by the Withdrawal Agreements, and therefore the Equality impact relating to nationality is proportionately high. However, the

⁸ SLC 2018/19 Provisional data, Table3B (ii)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938467/slcsp052020.xlsx

⁹ These are derived by dividing the number of EU domiciled students taking up a tuition fee loan in English HEIs by the total number of EU domiciled students at those institutions. Only providers who have both SLC and HESA data available are included in this analysis. Based on 2018/19 data.

¹⁰ <https://www.gov.uk/government/statistics/student-support-for-higher-education-in-england-2019>.

number of non-EU international students, who are not generally eligible for home fee status or student finance, stands at 288,000, or 15% of the student population at English providers¹¹. Therefore, the equalities impact on EU nationals, and the policy to equalise access for those for whom we have no legal obligation nor rationale to continue funding has been considered alongside, and balanced against, the position in relation to other international students.

It should also be noted that, should EU nationals be covered by the citizens' rights provisions in the Withdrawal Agreements, they and their family members will continue to have access to home fee status and student financial support on broadly the same basis as now, subject to meeting the usual residency requirements. Therefore, those who meet the policy intent and are covered by citizens' rights (and hold the same nationality as those that do not) will be unaffected by these changes.

EEA and Swiss migrant workers, self-employed persons and family members

This eligibility category will be removed for students who start a course from academic year 2021/22 unless the student (and the migrant worker or self-employed person, where the student is the family member) is covered by the Withdrawal Agreements and meets the relevant residency requirements.

Our analysis focuses on the number of EU students, as there is a lack of data to predict the impact on other EEA (Norway, Iceland and Liechtenstein) and Swiss students. This is due to these persons only being eligible for student finance and home fee status if they are a migrant or frontier worker, self-employed person or a family member thereof. Other EEA and Swiss nationals who do not fall into this category (or one of the other eligibility categories), and who do not have settled status, are not eligible for home fee status and student finance.

According to Higher Education Statistics Authority (HESA), there were 6,820 other EEA- and Switzerland-domiciled students at English HE providers in 2018/19¹², predominantly from Switzerland and Norway. It is not possible from the data to tell how many of these students are eligible for home fee status and student loans (e.g. who are migrant workers), but it is expected to be small. There were a negligible numbers Swiss nationals accessing student support in 2019/20. The impact of removing access to home fee status

¹¹ HESA student record, 2018/19 <https://www.hesa.ac.uk/data-and-analysis/students/where-from>

¹² See <https://www.hesa.ac.uk/data-and-analysis/students/where-from> - Norway 3,235, Switzerland 3,360, Iceland 210 and Liechtenstein 15.

and student finance is therefore estimated to be negligible in proportion to the total student population.

Children of Swiss nationals

This eligibility category for student support and home fee status will be removed for children of Swiss nationals starting a course in academic year 2021/22 unless they are covered by the Swiss Citizens' Rights agreement and meet the relevant residency requirements

We do not collect data on parent nationality or occupation, but we do know that there were around 3,360 Swiss domiciled students enrolled at English HE Institutions in the academic year 2018/19¹³ (up from 3,275 in 2017/18). We do not hold data on the personal characteristics of these students; however, there were very few children of Swiss nationals accessing student support in 2019/20. The impact of removing access to home fee status and student finance is therefore estimated to be negligible in proportion to the total student population.

Children of Turkish workers

This eligibility category for student support and home fee status will be removed for students who start a course from AY 21/22 unless they and their parent were living in the UK before 31 December 2020, and the parent's leave to remain continues to be valid and they meet the relevant residency requirements.

We do not collect data on parent nationality or occupation. However, there were around 3,200 Turkish domiciled students enrolled at English HE Institutions in the academic year 2018/19¹⁴ (up from 3,060 in 2017/18). There was a negligible number of Turkish workers accessing student support in 2019/20. The impact of removing access to home fee status and student finance is therefore estimated to be negligible in proportion to the total student population. We do not hold data on the personal characteristics of these students; however, we do not expect there to be an equality impact on those students whose parents continue to have the relevant leave to remain in the UK.

¹³ Source: HESA student record 18/19: <https://www.hesa.ac.uk/data-and-analysis/students/where-from>

¹⁴ Source: HESA student record 18/19: <https://www.hesa.ac.uk/data-and-analysis/students/where-from>

Categories with continued eligibility for student finance from academic year 2021/22

EU, other EEA and Swiss nationals covered by the Withdrawal Agreements

Current EU principles of equal treatment and non-discrimination will continue to apply for those covered by the citizens' rights provisions in the Withdrawal Agreements (the EU Withdrawal Agreement, the EEA-EFTA Separation Agreement and the Swiss Citizens' Rights Agreement). This means that EEA and Swiss nationals, and their family members, who are covered by the relevant agreements will be eligible for support on broadly the same basis as now, subject to meeting the residency requirements.

All those that have settled status under the EUSS will be eligible for full support subject to meeting the usual residency requirements.

- Those with settled status are eligible for home fee status, tuition fee and maintenance support on the basis of 3 years' residency in the UK and Islands
- Irish citizens settled in the UK do not need to apply to the EUSS to benefit from these rights.

For those with pre settled status, existing student finance rules will apply to those in scope of the Withdrawal Agreements. These persons in scope and with pre-settled status will be eligible for support, as follows:

- EU nationals (and family members) will be eligible for home fee status and tuition fee support on the basis of 3 years' residency in the UK, Gibraltar, EEA and Switzerland
- EEA and Swiss migrant and frontier workers and self-employed persons (and family members) will be eligible for home fee status, tuition fee and maintenance support on the basis of 3 years' residency in the UK, Gibraltar, EEA and Switzerland
- Children of Swiss nationals covered by the Swiss Citizens' Rights Agreement will be eligible for home fee status, tuition fee and maintenance support on the basis of 3 years' residency in the UK, Gibraltar, EEA and Switzerland.

Children of Turkish Workers who have been granted extended leave to remain by the Home Office

Children of Turkish workers living in the UK before the end of the transition period, with parents who have leave to remain will have access to home fee status and student finance from academic year 2021/22 provided they meet the relevant residency requirements.

UK Nationals and their family members living in the EEA/Switzerland

UK nationals and their family members living in the EEA or Switzerland at the end of the transition period will continue to be eligible for home fee status and student support from Student Finance England for courses starting on and after 1 August 2021 and before 1 January 2028. UK nationals (and their family member if applicable) must meet the relevant residency requirements.

The number of EEA (excluding the Republic of Ireland¹⁵) and Swiss domiciled UK national students studying at English Higher Education Institutions. In the academic year 2018/19, there were 4,795 EEA (excl. Ireland) and Swiss students with a UK nationality studying at English HEIs. They represent 0.2% of the 1,942,535 students studying at English HEIs in 2018/19.

Table 2: EEA (excl. Ireland) and Swiss domiciled students with UK nationality at English HEIs in 2018/19 by study level

Undergraduate	3,970
Postgraduate	835
Total	4,795

Source: HESA Student Record 2018/19

In terms of protected characteristics, HESA only has robust data available for age, gender/sex, and disability. Analysis shows that there are some differences regarding the protected characteristics of EEA¹⁶-domiciled students with UK nationality compared to the UK domiciled population that should be noted. Annex D illustrates the following:

On average, undergraduate students with UK nationality and EEA domicile are younger than students that are UK domiciled, and undergraduate students overall. At a postgraduate level, UK nationals with EEA domicile are also younger than UK domiciled students but slightly older than postgraduate students overall.

The share of female students is lower among UK nationals with EEA and Swiss domicile than among all students at undergraduate and postgraduate level. 53% of undergraduate students with UK nationality and EEA domicile were female compared to 56% of all undergraduate students at English HEIs. At the postgraduate level, 55% of UK national EEA domiciled students were female compared to 58% of all postgraduates at English HEIs¹⁷.

¹⁵ We treat Ireland as part of the Common Travel Area

¹⁶ Subsequently, students referred to as EEA-domiciled will include Swiss –domiciled but exclude Irish domiciled students.

¹⁷ See Annex E for more detail

Students with a disability are underrepresented at the undergraduate level with 13% of UK national EEA domiciled students declaring a disability compared to 15% of all undergraduates. At postgraduate level rates of disability are similar - 10% of UK nationals with EEA domicile have declared a disability as do 10% of all students.

Given that these student groups will continue to be covered by the Withdrawal Agreement or otherwise, we do not expect there to be an equality impact on those students with protected characteristics.

Irish Citizens in the Republic of Ireland

The UK Government is firmly committed to maintaining rights of Irish nationals to access higher and further education courses on a reciprocal basis. This includes rights to home fee status, tuition fee loans and maintenance support subject to meeting the eligibility criteria on the same basis as UK nationals.

Given that fee support will continue indefinitely for Irish citizens who have been resident in the Common Travel Area, we do not expect the proposed changes will have an equality impact on these students with protected characteristics, other than those domiciled in the EEA/Switzerland and captured under our analysis of EU nationals above.

Family members of the People of Northern Ireland

Home fee status and tuition fee support will continue for the non-Irish, non-UK family members of people of Northern Ireland (PONI) where the family member meets the relevant residency requirements.

Other categories impacted by EU Exit from academic year 2021/22

UK and EU Nationals in Gibraltar

UK nationals ordinarily resident in Gibraltar, and EU nationals and family members with right to reside in Gibraltar arising under the Withdrawal Agreement will continue to be eligible in England for home fee status indefinitely, and tuition fee loans for courses starting before 1 January 2028 provided they meet the relevant residency requirements.

UK nationals in the British Overseas Territories (BOTs)

Eligibility for home fee status is retained indefinitely for those with UK nationality in the BOTs provided they meet the relevant residency requirements.

UK nationals in the EU Overseas Territories (EUOTs)

Eligibility for home fee status is retained for courses starting before 1 January 2028 for those with UK nationality in the EUOTs, provided they meet the relevant residency requirements.

EU nationals domiciled in the British and EU Overseas Territories (OTs)

In line with EU nationals living in the EEA/Switzerland this eligibility category will be removed for students who start a course from academic year 2021/22.

Equalities assessment for the OTs

In academic year 2018/19, there were 938,390 full-time undergraduate students enrolled at English Higher Education Institutions, who were UK nationals domiciled in the UK prior to study. There were 205 UK nationals classified as Gibraltar domiciled, 480 UK nationals domiciled in the remaining BOTs and no UK nationals domiciled in EU OTs. There were also 430 EU nationals domiciled in Gibraltar, 10 in the remaining BOTs and 60 in the EU OTs. Hence the number of persons affected by the proposed policy position will be small.

In terms of protected characteristics, HESA only has robust data available for age, gender/sex, and disability¹⁸. Analysis indicates that there are some differences regarding the UK and EU nationals domiciled in Gibraltar, other BOTs and EU OTs that should be noted. Annex C illustrates the following:

- The protected characteristics of UK national students domiciled in BOTs resembles the protected characteristics of students of all nationalities domiciled in BOTs.
- The protected characteristics of UK national students domiciled in Gibraltar resembles the protected characteristics of students of all nationalities domiciled in Gibraltar, although the split between male and females in the latter is more evenly balanced.
- The age distribution of UK national students domiciled in BOTs is similar to the age distribution of UK domiciled UK national students.
- UK nationals domiciled in Gibraltar tend to be younger (under 24) than in the UK or other BOTs generally.
- The share of female students among UK national students domiciled in BOTs is greater than the share of female students domiciled in the UK, although the share

¹⁸ HESA collects ethnicity information from UK domiciled students only.

of female students with UK nationality in Gibraltar is slightly below that of male students.

- Disability characteristics are slightly lower for UK national students domiciled in BOTs compared to those in the UK, with a lower percentage still of UK nationals with a known disability domiciled in Gibraltar.
- With regard to EU nationals, those domiciled in EU OTs more closely mirror those EU nationals in the UK while a higher proportion of those in Gibraltar fall into the younger age bracket (below 24 years).

Family Test

It is possible that these policy changes may have a negative impact on the families of those students who are not covered by the Withdrawal Agreements. The removal of home fee status and student support could increase the overall financial cost (in terms of upfront tuition fees and living expenses) of studying higher education in England, particularly if these students cannot secure alternative sources of income and funding. This may represent an additional financial burden on those students who are already incurring costs associated with any childcare and adult dependent responsibilities that they may have.

Annex A: Equality characteristics by domicile

Table 3: Enrolments by region of domicile and equality characteristics at English HEIs, 2018/19

Equality characteristics	Domicile				Total
	UK domiciled	Other EU domiciled	Non-EU domiciled	Not known	

Age

20 years and under	678,785	48,270	84,785	5	811,845
21-24 years	381,860	40,040	131,090	15	553,000
25-29 years	152,335	14,750	42,790	10	209,885
30 years and over	328,895	9,395	29,285	35	367,610
Age unknown	155	10	20	-	190
Total	1,542,030	112,460	287,970	70	1,942,535

Gender

Female	889,950	62,555	153,665	30	1,106,200
Male	650,735	49,720	134,165	40	834,660
Other	1,345	185	140	-	1,675
Total	1,542,030	112,460	287,970	70	1,942,535

Disability

No known disability	1,288,725	105,110	276,990	65	1,670,885
Self-declared disability	253,310	7,350	10,980	5	271,645
Total	1,542,030	112,460	287,970	70	1,942,535

Equality characteristics	Domicile				Total
	UK domiciled	Other EU domiciled	Non-EU domiciled	Not known	

Ethnicity

White	1,098,780				
Black	130,205				
Asian	193,980				
Mixed	68,550				
Other (including mixed)	28,565				
Not known	21,945				
Total	1,542,030	112,460	287,970	70	1,942,535

Source: Higher Education Statistics Agency's (HESA) Student Record 2018/19

Notes:

1. Figures have been rounded up or down to the nearest five, so components may not sum to totals
2. Domicile refers to country of student's permanent home address prior to entry to the course. More information regarding domicile can be found here: <https://www.hesa.ac.uk/collection/c19051/a/domicile>
3. Ethnicity data is only available for UK domiciled students

Annex B: Equality characteristics by domicile (percentages)

Table 4: Percentage of enrolments by region of domicile and equality characteristics at English HEIs, 2018/19

Equality characteristics	Domicile				Total
	UK domiciled	Other EU domiciled	Non-EU domiciled	Not known	

Age

20 years and under	44%	43%	29%	10%	42%
21-24 years	25%	36%	46%	23%	28%
25-29 years	10%	13%	15%	14%	11%
30 years and over	21%	8%	10%	52%	19%
Age unknown	0%	0%	0%	0%	0%
Total	100%	100%	100%	100%	100%

Gender

Female	58%	56%	53%	43%	57%
Male	42%	44%	47%	57%	43%
Other	0%	0%	0%	0%	0%
Total	100%	100%	100%	100%	100%

Disability

No known disability	84%	94%	96%	91%	86%
Self-declared disability	16%	7%	4%	9%	14%
Total	100%	100%	100%	100%	100%

Equality characteristics	All				Total
	UK domiciled	Other EU domiciled	Non-EU domiciled	Not known	

Ethnicity

White	71%				
Black	8%				
Asian	13%				
Mixed	4%				
Other	2%				
Not known	1%				
Total	100%	100%	100%	100%	100%

Source: HESA Student Record 2018/19

Notes:

1. Figures may not sum due to rounding
2. Domicile refers to country of student's permanent home address prior to entry to the course. More information regarding domicile can be found here: <https://www.hesa.ac.uk/collection/c19051/a/domicile>
3. Ethnicity data is only available for UK domiciled students

Annex C: Overseas Territories: Protected characteristics

Table 5: Protected characteristics of full-time undergraduate UK national enrolments at English HEIs by domicile, 2018/19

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories

Age

20 years and under	65%	78%	59%	..
21-24 years	25%	20%	29%	..
25-29 years	4%	1%	6%	..
30 years and over	6%	0%	6%	..
Age unknown	0%	0%	0%	..
Total	100%	100%	100%	..

Gender

Female	56%	47%	61%	..
Male	44%	53%	39%	..
Other	0%	0%	0%	..
Total	100%	100%	100%	..

Disability

Known disability	18%	9%	13%	
No known disability	82%	91%	87%	
Total	100%	100%	100%	

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories

Ethnicity

White	72%			
Black	7%			
Asian	14%			
Other (including mixed)	6%			
No known	1%			
Total	100%			
Grand Total	938,390	205	480	0

Source: DfE analysis of HESA student record, 2018/19

Table 6: Protected characteristics of full-time undergraduate EU national enrolments at English HEIs by domicile, 2018/19

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories

Age

20 years and under	45%	78%	..	42%
21-24 years	26%	22%	..	39%
25-29 years	11%	0%	..	15%
30 years and over	18%	1%	..	3%
Age unknown	0%	0%	..	0%
Total	100%	100%	..	100%

Gender

Female	59%	52%	..	49%
Male	41%	48%	..	49%
Other	0%	0%	..	2%
Total	100%	100%	..	100%

Disability

Known disability	8%	9%	..	8%
No known disability	92%	91%	..	92%
Total	100%	100%	..	100%

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories
White	63%			
Black	16%			
Asian	10%			
Other (including mixed)	10%			
Not known	2%			
Total	100%			
Grand Total	66,060	430	10	60

Source: DfE analysis of HESA Student Record, 2018/19

Table 7: Protected characteristics of full-time undergraduate (for all nationalities) enrolments at English HEIs by domicile, 2018/19

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories

Age

20 years and under	63%	78%	56%	39%
21-24 years	25%	21%	31%	40%
25-29 years	5%	0%	7%	16%
30 years and over	7%	1%	5%	6%
Age unknown	0%	0%	0%	0%
Total	100%	100%	100%	100%

Gender

Female	57%	50%	63%	47%
Male	43%	49%	37%	51%
Other	0%	0%	0%	1%
Total	100%	100%	100%	100%

Disability

Known disability	17%	9%	11%	7%
No known disability	83%	91%	89%	93%
Total	100%	100%	100%	100%

Equality characteristics	Domicile			
	UK	Gibraltar	British Overseas Territories	EU Overseas Territories

Ethnicity

White	69%			
Black	9%			
Asian	14%			
Other (including mixed)	7%			
Not known	1%			
Total	100%			
Grand Total	1,046,855	635	840	70

Source: DfE analysis of HESA student record, 2018/19

Notes

1. Figures are based on HESA standard higher education registration population.
2. Figures have been rounded up or down to the nearest five, so components may not sum to totals.
3. Percentages are calculated using unrounded figures. Percentages based on fewer than 22.5 individuals are suppressed in accordance with the Agreement for the Supply of Information Services. More information can be found here: <https://www.hesa.ac.uk/about/regulation/data-protection/rounding-and-suppression-anonymise-statistics>
4. Nationality is defined as country of legal nationality. Where a student has dual-nationality, if one nationality is British then they are coded as UK nationality. If neither nationality is British but one is non-UK EU, then they are coded as relevant EU country nationality. Otherwise, they are coded as either country. More information on

HESA definitions of nationality can be found here:

<https://www.hesa.ac.uk/collection/c17051/a/nation>

5. Domicile refers to country of student's permanent home address prior to entry to the course. More information regarding domicile can be found here:
<https://www.hesa.ac.uk/collection/c19051/a/domicile>
6. British Overseas Territories include: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Montserrat, Pitcairn Islands, South Georgia and South Sandwich Islands, St Helena, Ascension and Tristan da Cunha, Turks and Caicos Islands
7. EU Overseas Territories include: Greenland and Faroe Isles (Denmark possession), Netherlands Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten) and Aruba (Netherlands possession), New Caledonia, French Polynesia, Wallis and Futuna Mayotte, St Pierre et Miquelon, French Southern Territories, St Barthelemy (French possession)
8. Ethnicity data is only available for UK domiciled students

Omitted Countries

9. HESA defines 'no settled inhabitants' as no inhabitants apart from military and scientific personnel, staff of contractors and seasonal residents.
10. Antarctic Territories are omitted as there are 'no settled inhabitants'. Although there are a number of national territorial claims to parts of Antarctica, these have been in abeyance since the Antarctic Treaty in 1961.
11. British Indian Ocean Territories is omitted as indigenous inhabitants have been displaced elsewhere and as such there are no settled inhabitants.
12. Source: <https://www.hesa.ac.uk/collection/c18051/a/domicile>

Annex D: UK National domiciled in EEA countries and Switzerland (excluding Ireland)

Table 8: Enrolments of UK Nationals domiciled in EEA countries and Switzerland (excluding Ireland) at English HEIs, 2018/19

Equality characteristics	Number of students		Percentage of students	
	Postgraduate	Undergraduate	Postgraduate	Undergraduate

Age

20 years and under	15	2,785	2%	70%
21-24 years	280	965	33%	24%
25-29 years	175	80	21%	2%
30 years and over	370	135	44%	3%
Age unknown	0	0	0%	0%
Total	835	3,970	100%	100%

Gender

Female	465	2,100	55%	53%
Male	370	1,865	44%	47%
Other	0	5	0%	0%
Total	835	3,970	100%	100%

Disability

Known disability	80	520	10%	13%
No known disability	755	3,450	90%	87%
Total	835	3,970	100%	100%

Source: DfE analysis of HESA student record, 2018/19

Notes:

1. Figures rounded to the nearest 5

2. Domicile refers the students permanent or home residence prior to starting to the course.
3. The countries included in the analysis are Austria, Belgium, Bulgaria, Croatia HR, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Iceland, Liechtenstein, Norway, Switzerland
4. Ethnicity is not available for this group (only available for UK domiciled students).

Annex E: Protected characteristics of total HE student enrolements

Table 9: Protected characteristics of total HE student enrolements by level of study at English HEIs, 2018/19

		Postgraduate	Undergraduate
Age	20 years & under	1%	55%
	21-24 years	37%	26%
	25-29 years	24%	7%
	30 years & over	39%	12%
	Age unknown	0%	0%
	Total	100%	100%
Gender	Female	58%	56%
	Male	41%	43%
	Other	0%	0%
	Total	100%	100%
Disability	Known disability	10%	15%
	No known disability	90%	85%
	Total	100%	100%
Grand Total		482,000	1,460,530

Source: HESA student record, 2018/19

Notes:

1. Figures may not sum due to rounding.



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