

## Eligibility for home fee status and capped fees following the UK's exit from the EU.

This note offers additional guidance on assessing eligibility for home fee status following EU Exit. Its intention is to support providers as they assess fee status of potential students applying for places in academic year 2021/22.

### What do regulations require providers to have regard to?

- **The Higher Education (Fee Limit Condition) (England) Regulations 2017** ('the Fee Limit Condition Regulations') prescribe the category of higher education provider and set out the qualifying persons and courses to which/whom maximum fee limits for undergraduate courses apply.
- A student is defined as a 'qualifying person' if, on the first day of the first academic year, they fall within a relevant category listed in the Schedule to those Regulations. This includes those groups set out in this note below as well as those with rights arising from the Withdrawal Agreement, and other categories such as humanitarian protection and long residence groups. The relevant categories depend on whether the student started a course before 1 August 2021 or not.
- Qualifying persons are students for whom home fee status and maximum fee limits apply if they are undertaking a 'qualifying course' offered by a provider registered in the Approved (Fee Cap) part of the Office for Students Register.
- A qualifying course is a course designated for support and offered by a provider whose activities are wholly or principally carried on in England.
- Maximum fee limits for courses offered by Approved (Fee Cap) Providers are set through the Higher Education (Fee Limits and Fee Limit Condition) (England) Regulations 2018 and the Higher Education (Fee Limits for Accelerated Courses) (England) Regulations 2019. Students undertaking courses at Approved (Fee Cap) Providers in 2021/22 can apply for a fee loan to meet the full costs of their tuition.
- **The Education (Fees and Awards) (England) Regulations 2007** ('the Fees and Awards Regulations') make provision which permits providers to charge higher fees to students who do not have a specified connection with the UK than those who do. They provide that it is lawful to charge higher fees to a student who, on the first day of the first academic year, does not fall within a relevant category in Schedule 1 to those Regulations than to a student who does. Schedule 1 lists the categories of students with a specified connection to the UK for whom home fee status may apply (depending on whether they have started a course before 1 August 2021). These categories align with 'qualifying persons' in the Fee Limit Condition Regulations. International students are those who are not listed in a relevant category of Schedule 1 of

the Fees and Awards Regulations and therefore do not have a specified connection with the UK.

- Providers are responsible for setting fees, subject to applicable maximum fee limits, but in doing so should consider their equality duties together with the Fees and Awards Regulations.

## **Eligibility changes arising from EU Exit for certain groups who are not directly covered by the Withdrawal Agreements.**

DfE has published a policy document at the following link which sets out in more detail the changes to Student Finance Eligibility arising from EU Exit for the 2021 to 22 academic year.

[Student finance eligibility: 2021 to 2022 academic year - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/student-finance-eligibility-2021-to-2022-academic-year)

For the purposes of this note, we have highlighted below the changes that specifically affect

- UK nationals and their family members living in the EEA and Switzerland,
- the family members of UK nationals living in the UK,
- UK and EU nationals and their family members living in Gibraltar,
- UK nationals and their family members living in the other British Overseas Territories, and
- students living in the Crown Dependencies.
- The Common Travel Area arrangement with Ireland
- Irish citizens living in the EEA and Switzerland

### **UK Nationals and their family members living in the EEA and Switzerland**

- UK nationals and their family members living in the EEA or Switzerland on 31 December 2020 will generally be eligible for **home fee status, and tuition fee and maintenance support** from Student Finance England for courses starting on or after 1 August 2021 and before 1 January 2028 if they meet the following conditions:
  - they were living in the EEA or Switzerland on 31 December 2020 (or had moved back to the UK immediately after living in the EEA or Switzerland); and
  - they have lived in the EEA, Switzerland, the UK or Gibraltar for at least the last three years; and
  - they have lived continuously in the EEA, Switzerland, the UK or Gibraltar between 31 December 2020 and the start of the course.

### **Family members of UK nationals living in the UK**

- Family members of UK nationals resident in the UK will qualify for home fee status and tuition fee support from Student Finance England on the basis of 3 years ordinary residence in the UK and the Islands. They must also be undertaking a designated course in England.

### **UK and EU nationals resident in Gibraltar**

- UK nationals and their family members resident in Gibraltar, and EU nationals and their family members who have a right to reside there arising from the Withdrawal Agreement, will continue to be eligible in England for home fee status, on the basis of 3 years' residency in the UK, Gibraltar, EEA and Switzerland. They will be eligible for fee support for courses starting before 1 January 2028.

### **UK nationals resident in the other British Overseas Territories**

- UK nationals living in the other British Overseas Territories and their family members will be eligible for home fee status when studying in England, on the basis of 3 years' residency in the British Overseas Territories, UK and the Islands, before the start of the course.

### **Students living in the Crown Dependencies**

- From the 2021/22 academic year new and continuing students living in the Crown Dependencies (the 'Islands'), who come to England solely for the purposes of higher or further education study, will be eligible for home fee status, on the basis of 3 years' residency in the UK or the Islands. Currently, only students from the Crown Dependencies who move to the UK for purposes other than undertaking a course are considered to be ordinarily resident in England on the first day of their course, and are eligible for home fee status.

### **The Common Travel Area arrangement with Ireland**

- The UK Government is firmly committed to maintaining rights of Irish citizens 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.
- Irish citizens resident in the UK, Islands or Ireland for three years before the start of their course and undertaking a course in England will be eligible for home fee status, tuition fee loans and Advanced Learner Loans from Student Finance England on the same basis as UK nationals. Such persons coming from Ireland may arrive in the UK on or before the day on which the first term of the first academic year actually begins.
- Additionally, Irish citizens will be eligible for maintenance support in England if they have lived in the UK and Islands for three years before the start of the course.

### **Irish citizens living in the EEA and Switzerland**

- Irish citizens living in the EEA or Switzerland on 31 December 2020 will generally be eligible for home fee status and tuition fee loans from Student Finance England for courses starting before 1 January 2028 if they meet the following conditions:

- they are living in the EEA or Switzerland on 31 December 2020 (or have moved to the UK before this date immediately after living in the EEA or Switzerland); and
- they have lived in the EEA, Switzerland, the UK or Gibraltar for at least the last three years; and
- they have lived continuously in the EEA, Switzerland, the UK or Gibraltar between 31 December 2020 and the start of the course.
- Irish citizens living in the EU Overseas Territories on 31 December 2020 will continue to be eligible for home fee status in England for courses starting before 1 January 2028.