

# Assessing Eligibility Guidance

## Higher Education Student Finance in England 2016/17 Academic Year – Version 1.4 February 2017

Version 1.4 (February 2017) has been updated to reflect a change in EU residency requirements from 3 to 5 years on page 35.

Version 1.3 (November 2016) has been updated to reflect the change in Government Department from the Department for Business Innovation and Skills (BIS) to the Department of Education (DfE).

Version 1.2 (July 2016) has been updated with the new long residence eligibility category effective 6 June 2016. The Student Support Regulations have been amended (S.I 2016/584) and provide that students with long residence in the UK and three years lawful ordinary residence before the first day of the first academic year of their course may be eligible for student support. New text has been added on pages 25, 37 and 38. Please see the SSIN 08/2016 relating to long residence on the SFE Practitioners website:

<http://www.practitioners.slc.co.uk/policy-information/student-support-information-notice.aspx>

Version 1.2 has additional text on temporary absences and dual residence, added on pages 15, 16 and 17, to clarify policy intent. A regulation reference was corrected on page 35.

The March version has been updated with the new requirement – effective from 25<sup>th</sup> March 2016 in respect of EU Nationals who are applying for maintenance support for courses starting in the Academic Year 2016/17.

The student Support Regulations have been amended (S.I 2016/270) and now provide that from 25<sup>th</sup> March 2016 onwards, EU nationals who are applying for maintenance support, must now meet five years ordinary residence in the UK and Islands.

New text had been added on pages 34 and 35 to clarify. Please also see SSIN 06/2016 published on the SFE Practitioners website at below location.

<http://www.practitioners.slc.co.uk/policy-information/student-support-information-notice.aspx>

**Further amendments to the March 2016 version as are follows:**

**Correction of a typo in the text of the third bullet point on page 27**

**Correction of the calculation of the value 'X' in the scenario 'Student D' in Annex 9**

Attached is the consolidated '*Guidance for Student Finance England (SFE) on the administration of Student Support 2016/17*'. The chapter contains guidance on assessing eligibility for support for students in 2016/17.

References to "the Regulations" mean the Education (Student Support) Regulations 2011 (2011/1986) as amended by the Education (Student Fees, Awards and Support) (Amendment) Regulations 2012 (2012/1653), the Education (Student Support and European University Institute) (Amendment) Regulations

2013 (2013/1728), the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (2013/630), The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Savings Provisions) Order 2013 (2013/235) and the Further and Higher Education (Student Support) (Amendment) Regulations 2014 (2014/2765), the Education (Student Support) (Amendment) Regulations 2015 (2015/1951), the Education (Student Support) (Amendment) Regulations 2016 (2016/270) and the Education (Student Fees, Awards and Support) (Amendment) Regulations 2016 (2016/584).

This guidance is designed to assist with the interpretation of the Student Support Regulations as they stand at the time of publication. It does not cover every aspect of student support nor does it constitute legal advice or a definitive statement of the law. Whilst every endeavour has been made to ensure the information contained is correct at the time of publication, no liability is accepted with regard to the contents and the Regulations remain the legal basis of the student support arrangements for the academic year 2016/17. In the event of anomalies between this guidance and the Regulations, the Regulations prevail. Please note the Regulations are subject to amendment.

Please note this guidance is for English domiciled students only. Contact details for Welsh, Scottish and Northern Ireland Authorities can be found at Annex 6.

If you have any queries on the content of this document, please contact the following:

	<b>Telephone</b>	<b>Email</b>
Student Support Team	0300 100 0618	<a href="mailto:SSIN_queries@slc.co.uk">SSIN_queries@slc.co.uk</a>

**Please note that:**

For new students who start studying from AY 2016/17 ('2016 cohort' students), Maintenance Grant and Special Support Grant have been replaced by enhanced levels of loan for living costs. References to Maintenance Grant and Special Support Grant in this guidance are therefore only applicable to 2012 cohort and earlier cohort students. See the "Assessing Financial Entitlement" guidance for more details of the maintenance support available to cohort groups.

Postgraduate Loan is being introduced from AY 2016/17 for stand alone Master's courses studied. Please see the "Postgraduate Loan" guidance for more details on this product.

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## INTRODUCTION

This chapter looks at the eligibility requirements each applicant will need to satisfy in order to be considered eligible for support in connection with a course of higher education. It gives detailed guidance on the Regulations for academic year 2016/17. However, it is not exhaustive and is not intended to be a substitute for reading the Regulations. Please note this guidance chapter focuses mainly on full-time courses.

A 'current system student who is not 2008 or 2009 cohort' is an eligible student who:

- either started their current course on or after 1<sup>st</sup> September 2006 and before 1<sup>st</sup> September 2008; or
- started their current course on or after 1<sup>st</sup> September 2008 and before 1<sup>st</sup> September 2009 and who has studied on a previous designated course which began before September 2008
- started their current course on or after 1<sup>st</sup> September 2009 and before 1<sup>st</sup> September 2012 and has previous study which commenced before 1<sup>st</sup> September 2008

See the "Assessing Financial Entitlement" guidance for more details

A '2008 cohort' student is an eligible student who:

- is continuing on a course which began on or after 1<sup>st</sup> September 2008 and before 1<sup>st</sup> September 2009, and who has not undertaken a previous designated course which began before 1<sup>st</sup> September 2008; or
- is continuing on a course which began on or after 1<sup>st</sup> September 2008 and before 1<sup>st</sup> September 2009 and is on a course which leads to a qualification as a medical doctor, dentist, veterinary surgeon, architect, landscape architect, landscape designer, landscape manager, town planner, town and country planner or social worker (regardless of whether or not the student has studied on a previous designated course which commenced before 1<sup>st</sup> September 2008)

A '2009 cohort' student is an eligible student who:

- began their current course on or after 1<sup>st</sup> September 2009 and before 1<sup>st</sup> September 2012 and who has not undertaken a previous course (as defined in Regulation 12) which began before 1<sup>st</sup> September 2008; or
- began an ITT course which is not an undergraduate degree, or a course in social work, medicine, dentistry, veterinary surgery or architecture on or after 1<sup>st</sup> September 2009 (regardless of whether or not the student has studied on a previous course (as defined in regulation 12) which commenced before 1<sup>st</sup> September 2008)

A '2012 cohort' student is an eligible student who:

- is continuing on a course which began on or after 1<sup>st</sup> September 2012 and before 1<sup>st</sup> September 2016;
- is not a 2008, 2009 or 2016 cohort student; and

- has not transferred to the current course from a course beginning before 1<sup>st</sup> September 2012; and
- is not beginning an ‘end-on’ course (as defined in regulation 2(1)) on or after 1<sup>st</sup> September 2012

A ‘2016 cohort’ student is an eligible student who:

- begins their current course on or after 1<sup>st</sup> August 2016; and
- is not a 2008, 2009 or 2012 cohort student; and
- has not transferred to the current course from a course beginning before 1<sup>st</sup> September 2016; and
- is not beginning an ‘end-on’ course (as defined in regulation 2(1)) on or after 1<sup>st</sup> September 2016
- is starting a full-time course on 1<sup>st</sup> August 2016 or later, having withdrawn from or abandoned a previous HE course in 2015/16 or in an earlier academic year
- is starting a full-time course on 1<sup>st</sup> August 2016 or later, having completed a part-time or full-time distance learning lower level course which started before 1<sup>st</sup> August 2016 (As these students have changed their mode of study, they will be applying for maintenance loan support for a full-time course for the first time in 2016/17 and will be assessed for the ‘2016 cohort’ maintenance support package)

There is no gap year protection for students who were offered a place for AY 2015/16 and deferred entry until AY 2016/17. These students will be assessed for the ‘2016 cohort’ maintenance support package.

Students are considered to have abandoned their previous course where they do not notify their provider or SLC about a new course which they commence in a later academic year.

## POLICY

### GENERAL EXCLUSIONS

Paragraph (3) of regulation 4, provides that students are excluded from *any support* under the Regulations if they:

- are in receipt of a non-means tested “healthcare bursary”, (as defined in regulation 2(1)) or other allowance referred to in regulation 4(3) - see paragraph 5 below for an explanation of what a “healthcare bursary” is
- are in breach of any obligation to repay any student loan
- have reached the age of 18 and have not ratified any student loan agreement made with them when they were under the age of 18; or
- have shown themselves by their conduct to be unfitted to receive support

NB: Where a person qualified as an eligible student for the previous academic year, it will not usually be necessary for SFE to redetermine personal eligibility for the following academic year (see regulations 4(7) to 4(10)).

Students who have spent any time in prison (whether on remand or otherwise) within the AY will not be entitled to any maintenance support whilst they are in prison. Maintenance support should be calculated on a pro-rata daily basis excluding the time in prison.

In exceptional circumstances, SFE will have the discretion to determine whether to pay full or partial support, or none at all whilst a student is in prison in an AY. SFE should only use their discretion where stopping or recovering payments will cause financial hardship to students and prevent them from continuing with their course. In order to determine if a student should receive grants and loans for living costs for periods spent in prison during the AY, SFE need to consider factors such as a student's ability to pay rent and other living expenses to enable them to continue with their course. It is expected that exercising the discretion would be appropriate when a student spends a very short time in prison.

A full-time '2012 cohort' or '2016 cohort' student who is an eligible prisoner (as defined in regulation 2(1)) will be eligible for tuition charge support only for those periods when they are imprisoned. A full-time student who is not a '2012 cohort' or '2016 cohort' student will be eligible for tuition fee loan and DSAs for those periods when they are imprisoned. For more information see the 'Change of Circumstances and Overpayments Policy' guidance.

### **NHS BURSARIES**

NHS funded students on diploma level courses in nursing, midwifery and operating department practice who entered prior to 2012 receive support for fees and non-means tested bursaries via the NHS Bursary scheme. They are not eligible for any support under the Regulations. Eligible students who can apply for an NHS bursary for a course that started in September 2012 or later will have access to a means tested NHS bursary, including payment of fees and a £1,000 grant. Students who entered prior to 2012 are not affected by this change. Further information about NHS bursaries is provided at Annex 1 to this chapter and the separate SFE NHS Guidance. Not all students access the NHS bursary scheme but do have access to a healthcare award for instance some paramedic students. If the award is means tested they should be assessed for reduced level maintenance loan.

From AY 2013/14, SAAS changed the funding regime for new and continuing Allied Health Profession (AHP) students studying in Scotland and, with the exception of nursing and midwifery students, have made available the "Young Students' Bursary (YSB)" and "Independent Students' Bursary (ISB)". These are income assessed bursaries that are available to all students in Scotland, including: students from England, Wales and Northern Ireland studying AHP courses in Scotland. DfE will continue to provide reduced rate loan for living costs to all AHP students from England who are studying in Scotland, as they remain in a bursary year; have their fees paid and can apply for a living costs bursary.

For more detailed information about NHS funded courses please see [Annex 1](#) or a separate NHS Guidance.

### **APPLICANTS WHO BREACH ANY OBLIGATION TO REPAY ANY PREVIOUS STUDENT LOAN OR WHO HAVE REACHED THE AGE OF 18 AND HAVE NOT RATIFIED A PREVIOUS STUDENT LOAN MADE AFTER THEY HAVE BEEN ASSESSED UNDER THE AGE OF 18**

The Regulations provide that a person shall not be eligible for support if he is in breach of any obligation to repay any loan (as defined in regulation 4(3)) or he has reached the age of 18 and has not ratified any agreement for a loan made with him when he was under the age of 18.

The applicant is not eligible for support, whether or not he has declared any such breach or non-ratification on his application (see Paragraph (3)(d) and (e) of regulation 4). SFE do not have any discretion in determining an applicant's eligibility in these circumstances.

SFE has a record of students who are in breach and this is discovered when the assessment is sent for approval. A letter is triggered at that point advising the student that he is ineligible while remaining in default. Once an applicant is no longer in breach, SFE should reassess his eligibility for the academic year in question. Any such reassessment is for the whole academic year, not from the date on which he ceased to be in breach of any such obligation or ratified any such agreement.

From AY 2014/15 onwards a ratification form is no longer required. The new wording that was added to the student declaration form covers previously borrowed loans where student was under the age of 18. By signing a new declaration the student acknowledges and agrees that they are automatically ratifying all student loans that they borrowed before reaching the age of 18.

#### **APPLICANTS WHO BREACH ANY OBLIGATIONS TO REPAY ANY PREVIOUS STUDENT LOAN AFTER THEY HAVE BEEN ASSESSED**

If an applicant is awarded funding but subsequently breaches any obligation to repay any previous student loan, he will remain eligible for support in the academic year to which the notification of funding applies.

#### **INELIGIBILITY ON GROUNDS OF UNFITNESS TO RECEIVE SUPPORT**

A student does not qualify as an eligible student if, in SFE's opinion, he has shown himself by his conduct to be unfitted to receive support (see regulation 4(3)(f)). The power may be used at any stage in the process of assessing a student's eligibility for support but once a student has been notified that he is eligible this power may not be used. However, SFE may terminate eligibility for similar reasons under paragraph (5) of regulation 6.

One example of when SFE might decide that a student is unfitted to receive support might be where it comes to light that the student has committed a fraud in applying for support, for example if they are discovered to have made applications to and received support from more than one authority, or presented fraudulent information in their applications in order to receive more support than they are entitled to. In such cases SFE should consider exercising the power to refuse the application (or terminate eligibility, depending on when the fraud comes to light) on the grounds that the student has shown himself unfit due to fraudulent conduct to be considered for support.

Other examples might include fraud against other government funds such as DWP benefits. Conviction of a serious criminal offence might also be grounds for refusal in some circumstances, but SFE will need to consider such cases carefully, especially where the applicant is pursuing higher education as a means towards his rehabilitation. A student may argue that he has already been punished adequately by his sentence, but SFE should consider whether it is appropriate to support a student whose conviction casts doubt on his suitability for his intended career. (An obvious example is an offence against a child by someone who is, or may be, preparing for a career working with children.) It is important to bear in mind that the decision as to whether a student is suitable for or should be allowed to take a course rests with the institution; the decision as to whether the student is eligible for funds rests with SFE.

SFE might also decide that a student is unfitted to receive support where the student has made repeated applications for and received support for a number of different courses without completing those courses. This is most likely to involve loans for living costs and targeted grants: Adult Dependents' Grant, Childcare Grant, Parents' Learning Allowance and DSAs, as entitlement for these loans and grants is not subject to previous study rules, but could also involve fee loan and (for pre 2016 cohorts) maintenance grant support.

If a student has already received support for four courses, SFE should consider whether that student should be eligible for further support. SFE might decide that a student who has received support for four successive undergraduate courses and withdrawn from each is unfitted to receive support for a fifth course. There may

be other similar cases where a student is unfitted for further support. SFE should deal with each case on its own merits. In the case of fee support, SFE should consider any additional years of fee support awarded due to compelling personal reasons when making their decision.

There might be other instances where SFE would wish to consult the institution before exercising the power to refuse or terminate eligibility, where the institution's evidence might put the student's fitness to receive support into question. For example, the institution might provide evidence of attempted fraud against it which has not actually led to the student being expelled but which might lead SFE to consider whether the student, though being allowed to continue with the course, should continue to receive support for it.

The fact that a student is, or has in the past been, in dispute with SFE over a student support issue should not of itself be a reason for refusing or terminating support, even if the dispute was acrimonious. It may be a different matter however if the student has behaved criminally in pursuing his grievance, though the case should be considered on its own merits.

It is important to remember that the purpose of these provisions is to safeguard public funds, and to ensure that they are spent properly. SFE should always ensure that a decision to refuse or terminate support will stand up to examination in the event of a formal appeal or a court challenge. It may be a sensible precaution to seek advice from SFE's legal staff.

#### **ARMED FORCES PERSONNEL'**

To ensure applications for support from former members of the Armed Forces or family members of Armed Forces personnel are processed by the administration in the appropriate UK territory, from AY 2013/14 onwards all UK administrations have agreed an unified policy and will apply a consistent approach to the responsibility of processing such applications. Where the applicant's family was ordinarily resident in England prior to enlisting, the student's application should be processed by SFE unless the applicant or their family, have established permanent residence elsewhere. Where an applicant's family have not established a permanent residence in England, and are living overseas or in England on a posting, SFE will check where in the UK the member of the Armed Forces was ordinarily resident when they enlisted, If this was deemed to be in either Wales, Northern Ireland or Scotland, then the applicant will apply to the appropriate UK administration for their student support.

For the purposes of this guidance 'UK Armed Forces' includes active service members of the British Royal Navy, Army, Royal Air Force and Army Reserves only.

#### **PERSONAL ELIGIBILITY**

The personal eligibility criteria for receiving support to attend a designated course are set out in regulation 4 and Schedule 1. Provisions on designated courses are in regulation 5 and Schedule 2 and are covered later in this chapter.

#### **STUDENTS ATTENDING MORE THAN ONE COURSE**

A student can be eligible for support for only one course at any one time. This is not intended to prevent students from moving between courses during an academic year, but to prevent students from being eligible for support for more than one course where they take two (or more) courses concurrently.

#### **TIME LIMIT FOR APPLYING FOR STUDENT SUPPORT**

Students must make their application to SFE within nine months of

- the first day of the academic year; or

- the date on which the course was designated, if that happens after the first day of the academic year; or
- the date on which the student or their spouse/civil partner, parent or step-parent is recognised as a refugee, if that happens after the first day of the academic year; or
- the date on which the student or their spouse/civil partner, parent or step-parent has been granted humanitarian protection in the UK, if that happens after the first day of the academic year; or
- the date on which the country of which they are a national gains accession to the European Union, if that happens after the first day of the academic year

**NB Please note that the above list is not exhaustive – see regulation 17.**

SFE has the discretion to extend the deadline where they consider it is appropriate to do so (regulation 9(2)(e)).

## DOCUMENTATION REQUIREMENTS

For all loans paid in AY 2016/17, the Secretary of State may make it a condition of entitlement to payment of any loan, that a student provides him with his UK national insurance number (NINO) (regulation 111(1)). The Department of Work and Pensions (DWP) will in most cases issue NINOs to applicants applying for student support (if they do not have one).

Regulation 112(3) states that the Secretary of State may request sight of a student's valid national ID card, his valid passport issued by the state of which he is a national or his birth certificate. Regulation 8(1) states that the applicant should provide such documentation as the Secretary of State may require with their application. Regulation 8(2) states that the Secretary of State can make such enquiries as necessary to determine eligibility and this function has been transferred (or delegated) to the relevant bodies. See also Schedule 3. Students are asked at the point of application whether or not they hold a UK passport; if yes, they can provide SFE with their passport number and details rather than sending the actual passport. SFE verify these details with the Identity and Passport Service (IPS) via the Government Secure Intranet.

Relevant documents are listed in the notes for completion of each application. SFE may accept legally certified or notarised true copies of documents on an exception only basis where they consider it unreasonable to insist on originals; however every endeavour should be made to have sight of original identity documents, preferably a passport or identity card. A certified true copy is a photocopy of an original document which must have been stamped and signed as being a true copy of the original by an official such as a minister of religion, doctor, lawyer, civil servant, teacher/lecturer or police officer. The person certifying the copy must provide their name, address and contact number. The certifying person must not be a relative.

If a student chooses to submit his birth certificate then this must be accompanied by a fully completed Identity Declaration Form (ADIF).

SFE should not require students to produce birth certificates where they are unwilling to do so, nor should they require students to provide reasons for not wanting to do so. In such cases, other forms of evidence such as a valid passport should be accepted. In exceptional cases a student may be unable to provide either a birth certificate or passport with valid reason, for example the Home Office is holding the passport and the student is not in possession of his birth certificate. SFE must not in these circumstances continue to request these items, but may accept other forms of evidence from external organisations such as the Home Office or the student's solicitor to ensure that they can satisfy themselves of the applicant's identity.

## RESIDENCE AND OTHER ELIGIBILITY CONDITIONS

The information contained in this guidance on nationality, immigration and asylum etc represents the Department's understanding of the situation, but SFE should satisfy itself that it has understood the applicable law and practice in making assessments.

### **ORDINARY RESIDENCE**

Although not defined in the Regulations, 'ordinarily resident' has been interpreted by the courts as lawful habitual and normal residence from choice and for a settled purpose throughout the prescribed period, apart from temporary or occasional absences. Extracts from the judgment (Lord Scarman's) in the case of *Shah v Barnet London Borough Council* can be found in Annex 3. The ruling did not define what might constitute a temporary or occasional absence, but did indicate that it might be possible for an individual to establish ordinary residence in two countries simultaneously.

Paragraph 1 (3A) of Schedule 1 to the Regulations provides that a person is not to be treated as ordinarily resident in a place unless that person lawfully resides in that place. Therefore periods where an applicant has not been lawfully resident in the UK or EEA/Switzerland at any time within the 3 years prior to the 1<sup>st</sup> day of the 1<sup>st</sup> Academic Year of the course cannot be treated as ordinary lawful residence.

Where a student returns from an overseas military posting (as part of the UK Armed Forces) they may be considered Ordinarily Resident. Students applying for support following an overseas posting that falls under the military exemption would be considered ordinarily resident in the place they were domiciled prior to the posting, unless they have established a permanent residence elsewhere in the intervening period.

Students who were resident in other parts of the UK but England prior to their posting would be considered resident in that place and should apply to the relevant funding authority rather than SFE.

### **RESIDENCE WHOLLY OR MAINLY FOR THE PURPOSE OF RECEIVING FULL-TIME EDUCATION**

In order to be eligible for support, persons who are settled in the UK for the purpose of Paragraph 2 of Part 2 of Schedule 1 must not have been resident in the United Kingdom and Islands during the relevant three-year period wholly or mainly for the purposes of receiving full-time education. SFE should determine on a case by case basis whether an applicant has been resident here 'wholly or mainly' for education purposes.

The Department is of the view that a student is not prevented from qualifying for support simply because he or she has been receiving full-time education during some or all of the three year prescribed period. For example, the child or spouse/civil partner of a foreign businessman or diplomat ordinarily resident in the UK and Islands may be receiving full-time education, but may be here mainly to be with their parent or spouse/civil partner and so be entitled to support if the time requirements are met; a child whose parents are temporarily employed abroad may be receiving full-time education here, but his residence here may be mainly for the purpose of remaining in the UK with relatives rather than mainly for the purpose of attending school in the UK.

### **STUDENTS WHO MOVE TO ENGLAND FROM ELSEWHERE IN THE UK AND ISLANDS IN ORDER TO ATTEND A COURSE**

Paragraph 1(3) of Part 1 of Schedule 1 provides that a student who has been ordinarily resident in either Scotland, Northern Ireland, Wales, the Channel Islands, or the Isle of Man who moves to England specifically for the purpose of undertaking the current course or a course which the student was undertaking immediately before the current course should be regarded as being ordinarily resident in the place from which they have moved.

Such a student should contact the responsible authority in the area they have moved from to apply for support and are assessed for support under the rules that apply there. Those students ordinarily resident in England apply to SFE.

### **TEMPORARY OR OCCASIONAL ABSENCES**

When considering whether an applicant for support has been ordinarily resident throughout the prescribed three-year period preceding the start of the first academic year of a course, temporary or occasional absences may have to be considered. SFE should make decisions on whether an absence affects a person's ordinary residence on a case by case basis. However, the Department is of the view that each absence should be considered in the context of the person's period of residence, rather than simply on the basis of the duration of the absence itself. Place of birth or nationality should play no part in this consideration. The Department is of the view that rules of thumb or specified periods of time should not be applied in order to determine what constitutes a temporary or occasional absence. In making a decision, SFE will wish to consider whether it would be confident that their decision would be upheld if it were challenged in Court.

### **GAP YEARS**

The Department is of the view that a student taking a gap year before starting a higher education course does not break his ordinary residence in the UK and Islands (or the EEA and Switzerland).

The Department is also of the view that such a student can potentially be considered to meet the requirement to be ordinarily resident in England (or EEA and Switzerland as appropriate) on the first day of the first academic year of the course, or on the day on which the first day of the first term of the first academic year actually begins even if he is still abroad. SFE will need to satisfy themselves that the student has maintained a residence in the UK and Islands (or EEA or Switzerland as appropriate) during the relevant period and will return to England (EEA and Switzerland as appropriate) other than solely for the purpose of completing the relevant course.

### **TEMPORARY EMPLOYMENT OUTSIDE OF THE UNITED KINGDOM AND ISLANDS**

Paragraph 1(4) of Part 1 of Schedule 1 makes provision for students who or whose family members have been temporarily employed outside of England or the United Kingdom and Islands, (or the EEA, Switzerland and Turkey as appropriate).

Paragraph 1(4) provides that a person may be treated as being or having been ordinarily resident in England or the United Kingdom and Islands (or the EEA, Switzerland and Turkey as appropriate) if he would have been so resident but for the fact that he, his spouse or civil partner or his parent, or in the case of a dependent relative, his child or child's spouse or civil partner was temporarily employed outside of England or the United Kingdom and Islands (or the EEA, Switzerland and Turkey) during the three year period.

A person can only be considered temporarily absent from the UK and Islands (or the EEA, Switzerland and Turkey) if they have previously established ordinary residence in the UK (or the EEA, Switzerland and Turkey) at an earlier point in time.

Under Paragraph 1(5) of Part 1 of Schedule 1 members of the regular naval, military or air forces of the Crown, of another EEA State or of Switzerland or Turkey on service outside the United Kingdom and Islands or the EEA, Switzerland and Turkey, as appropriate, are considered to be temporarily employed overseas for any such period. The effect of this is that a person may be treated as being or having been ordinarily resident in England, the United Kingdom and Islands or the territory comprising the EEA, Switzerland and Turkey if he would have been so resident but for the fact that he, his spouse or civil partner, his parent or, in the case of a dependent relative, his child or child's spouse or civil partner was serving overseas. This group of people are in

a special situation because of the unique nature of their employment, namely that they are bound by military law to accept overseas postings. The provision is only intended for servicemen's families who follow them on postings: students who had been living overseas but not with the parent on active service would not be able to take advantage of this provision. In Annex 4 there is a certificate that can be used by SFE if they want verification of the applicant's status from the Ministry of Defence.

## EMIGRANTS

An absence from the United Kingdom because of emigration should generally not be considered to be a temporary absence but each case should be considered on its facts. Absences due to [temporary employment](#) overseas are discussed [below](#).

## CHILDREN LIVING IN THE UK (OR THE EEA OR SWITZERLAND AS APPROPRIATE) WHOSE PARENTS ARE TEMPORARILY EMPLOYED ABROAD

Children whose parents are temporarily employed outside the UK (or EEA, Switzerland and Turkey) but who remain in the UK (or EEA, Switzerland and Turkey), and therefore be eligible for support. The Department is of the view that the relevant period of their residence should not be regarded as being 'wholly or mainly for the purposes of receiving full-time education' simply because they are still here and receiving education while their parents are temporarily employed abroad. Paragraph 2(2) of Schedule 1, which states that the three years residence in the UK and Islands was not wholly or mainly for the purpose of receiving full-time education, does not apply to a person who is treated as ordinarily resident in the UK and Islands in accordance with paragraph 1(4) of Schedule 1.

A person who has come to the UK to study or be schooled may initially be ordinarily resident here primarily for educational purposes, but the purpose of residence may subsequently change, e.g. they may set up normal habitual residence in the UK. However, as always, SFE should make a decision in such cases based on the particular facts.

## POSSIBLE CONSIDERATIONS WHEN ESTABLISHING TEMPORARY EMPLOYMENT ABROAD

In reaching a judgement, SFE will wish to satisfy themselves that the period abroad arises from employment, assess whether or not the absence is temporary, and decide whether, but for the temporary employment of the applicant (or parents or spouse/civil partner etc.), he or she would have been ordinarily resident in the relevant place. In making their decision, SFE may wish to consider among other things: the nature of the posting; the terms of any contract or employer's letter; the period of time spent abroad; the time spent in this country; and whether a residence has been maintained in the UK (or as the case may be EEA, Switzerland and Turkey).

The onus is on the applicant to satisfy the authority that: his absence was due to employment abroad; and this employment was temporary; and were it not for temporary employment abroad he would be ordinarily resident in England or the United Kingdom and Islands (or the EEA, Switzerland and Turkey as appropriate).

In determining whether the absence was for purposes of employment in circumstances where the applicant was not in employment immediately after moving overseas, SFE may wish to consider:

- whether the applicant had applied for jobs prior to his or her departure
- the length of the time spent overseas before obtaining work
- whether the applicant resided in the same overseas country before and after obtaining a job

- what the applicant was doing prior to obtaining a job, or between jobs

In determining whether the employment was temporary or permanent, SFE should consider the nature of the contract. Holding temporary residency visas and/or temporary employment contracts are insufficient grounds of themselves as different countries have different immigration systems:

- does the contract include liability for UK (or EEA, Switzerland and Turkey) tax on earnings
- is the posting for a specified period (if it is for an unspecified period, what is the reason for this)
- how long is the contractual period
- is the contract renewable, has it been renewed or is it one of a succession of contracts abroad, does the contract convey automatic rights of return to this country from time to time
- how long has the employee already been resident abroad

The nature of the work:

- is it normal for the nature of the trade or profession to be mobile
- is mobility a condition of service?

A right of return:

- does the applicant (or parent, spouse/civil partner etc.) have an automatic right of return to work in his or her organisation (or a related one) in his or her home country on completion of the duty abroad

Periods between overseas postings:

- have such periods been spent in this country, i.e. in the employer's HQ in the UK (or EEA, Switzerland and Turkey) offices

Authorities may wish to bear in mind domestic employment case law; industrial tribunals have ruled that a succession of similar temporary contracts can be construed as permanent employment. A series of short contracts may be the result of a genuinely temporary posting, which is kept under review or may indicate a long-term posting with the contract being renewed as a matter of formality rather than a real review.

The list above is not exhaustive. Nor will all of the questions apply in every case. It emphasises however that each case must be dealt with individually and that decisions on whether employment abroad is permanent or temporary must not be decided solely on the length of period spent abroad, but in conjunction with the nature of the work and the employment pattern of the applicant. Again, SFE will wish to consider whether it would be confident that its decision would be upheld if it were challenged in Court.

#### **DETERMINING WHETHER AN APPLICANT HAS BEEN DUAL RESIDENT IN THE UK AND ISLANDS, THE EEA AND SWITZERLAND AND AN OVERSEAS STATE**

It is possible for a person to be ordinarily resident in two countries at the same time. Objective evidence must be provided to enable SFE to make a judgment as to whether there are significant and continued ties to the UK. SFE should consider the following factors and evidence:

- Was the student settled in the UK prior to leaving?

- Does the student/family maintain/have ownership of property? Note however, maintaining a property in the UK will not necessarily mean that somebody is ordinarily resident, for example a property may be an investment or a future retirement home.
- Has the student/family retained UK citizenship and valid UK passports and documents?
- Has the student/family retained temporary status in the other state despite having the option to have become citizens?
- Was the student a minor when the family left the UK?
- Has the student (or parents/guardian) maintained UK bank accounts and/or paid UK taxes?
- Has the student/family maintained business, work and/or social connections in the UK? Have regular visits been made to the UK during their absence not just for the purposes of holidays and visiting relatives?

### **SCHEDULE 1 PART 2 - CATEGORIES**

Part 2 of Schedule 1 to the Regulations sets out the various categories of student and the residency requirements and other conditions that they must satisfy in order to become an eligible student. Satisfying the requirements of one of the paragraphs in Part 2 of Schedule 1 does not automatically mean that a person is an eligible student. For example, a person may be prevented from being an eligible student by regulation 4(3).

### **PERSONS WHO ARE SETTLED IN THE UK BUT NOT BY VIRTUE OF HAVING ACQUIRED A PERMANENT RIGHT OF RESIDENCE IN THE UK (AS DEFINED IN THE REGULATIONS) (PARAGRAPH 2 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

To fall within paragraph 2 of Schedule 1, the student must be able to satisfy three requirements relating to his residence and immigration status on the *first day of the first academic year of his course* (for example, for a course starting in the autumn this date is 1 September). On that date he must:

- be settled in the United Kingdom within the meaning of section 33(2A) of the Immigration Act 1971, in other words ordinarily resident here without being subject to any restriction on the period for which he may remain
- have been ordinarily resident in the United Kingdom and Islands throughout the three year period preceding that date other than wholly or mainly for the purpose of receiving full-time education
- be ordinarily resident in England

The requirement that any part of the student's residence in the UK & Islands is not wholly or mainly for the purpose of receiving full-time education does not apply to those students covered by paragraph 2(2) of Schedule 1 (see below).

Paragraph 2(2) of Schedule 1 states that the requirement that the three years residence in the UK and Islands should not contain any period which was wholly or mainly for the purpose of receiving full-time education does not apply to a person who is treated as ordinarily resident in the UK and Islands in accordance with paragraph 1(4) of Schedule 1. Paragraph 1(4) of Schedule 1 states that:

- a person is to be treated as ordinarily resident in England, the United Kingdom and Islands or in the territory comprising the EEA and Switzerland or the territory comprising the EEA, Switzerland and Turkey if he would have been so resident but for the fact that –
- he; or
- his spouse or civil partner; or
- his parent; or
- in the case of a dependent direct relative in the ascending line, his child or child's spouse or civil partner is or was temporarily employed outside England, the United Kingdom and Islands or, as the case may be, outside the area in question

## SETTLED STATUS

A person is free from any restriction on the period for which he may remain in the UK if:

- he is a British citizen (British citizens are not subject to any restriction on their length of stay in the UK; evidence of British citizenship may be established by a British Passport); or
- he is a person who has been granted indefinite leave to enter/remain (ILE/ILR)\*

\*The immigration status of such applicants may be established or verified by reference to the stamp(s) in their passports or travelling documents; or

- he has the right of abode

The right of abode means that you are entirely free from United Kingdom immigration control. Holders of this status should have a 'certificate of entitlement to the right of abode' confirming this.

- students not subject to immigration control under section 8(4) must have an 8(4) stamp in their passport as a result of being/having been a Commonwealth citizen serving in the UK Home Armed Forces

If student is no longer serving in the Armed Forces, they must have another eligible immigration status to be an eligible student under the Regulations

## BRITISH CITIZEN BY DESCENT

The British Nationality Act 1981 (section 2) provides that a child born outside the United Kingdom will be a British citizen by descent if either parent was a British citizen "otherwise than by descent".

Settled status is defined as being ordinarily resident in the UK without being subject to immigration time restrictions. A person who is a British citizen has the right of abode in the United Kingdom and so is not subject to immigration control, therefore, these students will meet the settled status requirement.

Parent means:

Children born before 1 July 2006

- the mother (if the child was born on or after 1 January 1983) – before 1983, women were not able to pass on citizenship to their children;

- the father (but only if he was married to the mother).

NB. If the parents were not married when the child was born, but then get married, the marriage might legitimise the child's birth. If it does, the child would become a British citizen (and would be regarded as having been one from birth) if the father was a British citizen (or settled) when the child was born. Children of a void marriage may also, in some circumstances, be treated as legitimate.

Children born on or after 1 July 2006

- the mother (i.e. the woman who gives birth to the child)
- the father if:
  - he is married to the mother at the time of the birth;
  - he is treated as the father under section 28 of the Human Fertilisation and Embryology Act 1990: or
  - (If neither (1) nor (2) apply) he can satisfy certain requirements as regards proof of paternity – i.e. he is named as the father on a birth certificate issued within 1 year of the child's birth or he can satisfy the Home Secretary that he is the father of the child (by means of DNA test results, court orders or other relevant evidence)

## EU OUTERMOST REGIONS

There are 9 territories classed as EU Outermost Regions, these are territories belonging to EU states and the citizens there are protected by EU primary and secondary legislation and must be treated as if they were residents of their parent state. For student support purposes residency in these territories counts towards EU fee eligibility and citizens from these territories who have three years ordinary residence in the UK and Islands would be additionally eligible for living cost support. These territories are:

Reunion (France)  
 Mayotte (France)  
 French Guyana (France)  
 St Martin (France)  
 Martinique (France)  
 Guadeloupe (France)  
 Azores (Portugal)  
 Madeira (Portugal)  
 Canary Islands (Spain)

## BRITISH OVERSEAS TERRITORIES

The British Overseas Territories Act 2002 made the previously known "dependent" territories as British Overseas Territories. A further change took place on 21 May 2002. If a person was a British Overseas Territories citizen (except by virtue of a connection **only** with the Sovereign Base Areas of Akrotiri and Dhekelia), immediately before 21 May 2002, they automatically became a British citizen on that date. They may also be a British citizen if they were born on or after 21 May 2002 in a British Overseas Territory or born outside a British Overseas Territory to a parent who is a British citizen.

The list of overseas territories is:

Anguilla  
 Bermuda

British Antarctic Territory  
British Indian Ocean Territory  
British Virgin Islands  
Cayman Islands  
Falkland Islands  
Gibraltar  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St. Helena and Dependencies  
South Georgia and the South Sandwich Islands  
Turks and Caicos Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia (British citizenship cannot be obtained by virtue of a connection only with these bases)

- any British overseas territories citizen (BOTC) entering the UK from the above countries (provided they have not renounced or acquired their BOTC status by naturalisation as a British Overseas Territory Citizen in an overseas territory after 21 May 2002) will be doing so as a British Citizen and will not be subject to immigration control. They also have the same rights as any other EEA national
- holders of BDTC\*/BOTC passports were allowed to present their BDTC\*/BOTC documents as evidence of right of abode in the UK prior to obtaining full British Citizen passports until 21 May 2003(\* British Dependent Territories Citizens)
- these students still have to meet the ordinary residence criteria
- students from BOTs are eligible for home fee status only (under The Qualifying Persons and Courses (QCP) Regulations and The Fees and Awards Regulations)

Students may be asked to provide proof that they were EU nationals, when applying for places at colleges and universities in England, Wales and Northern Ireland.

Acceptable evidence might be:

- a British Citizen passport;
- a British overseas territories citizen passport or British dependent territories citizen passport issued before 21 May 2002;
- a BOTC passport issued after 21 May 2002, with evidence that the person, or their parent was born in an overseas territory or registered or naturalised as a citizen before that date

They will not be eligible for student support unless they meet the eligibility criteria within the Student Support Regulations. The BOTs provision has also been extended to the overseas territories of other EU member states.

Overseas territories of other EU Member states are:

- Greenland & Faroe Isles (Denmark)
- Bonaire, Curacao, Saba, St Eustatius and St Marten and Aruba (Formerly Netherlands Antilles) Netherlands
- French possessions:- New Caledonia, French Polynesia, Wallis and Futuna, Mayotte, St Pierre et Miquelon

- St Barthelemy has been added to the list of overseas territories with effect from 1 January 2012. Since that date, St Barthelemy is no longer part of the EU and residence there can no longer be considered as ordinary residence in the EEA. However citizens of St Barthelemy retain their EU nationality
- French Southern and Antarctic Territories

## GIBRALTAR

Gibraltar is the only overseas territory listed above that is part of the [European Union](#) (EU), although it is not part of the customs union and is not a member in its own right. None of the other Overseas Territories are members of the EU, and the main body of EU law does not apply to them and, although certain provisions of EU law are applied to those territories as part of the EU's Association of [Overseas Countries and Territories](#) (OCT Association), they are not commonly enforceable in local courts.

See information on [Migrant workers coming from Gibraltar](#) and exercising a [right of residence in Gibraltar](#).

## PERSONS WHO HAVE A RIGHT OF PERMANENT RESIDENCE IN THE UK (AS DEFINED IN THE REGULATIONS) (PARAGRAPH 3 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)

In relation to these regulations only EEA and Swiss nationals and their family members who have acquired the right of permanent residence in the UK may become eligible students by virtue of coming within paragraph 3 of Part 2 of Schedule 1.

To fall within paragraph 3 of Part 2 of Schedule 1, the student must be able to satisfy four requirements. He must:

- be settled in the United Kingdom by virtue of having acquired the permanent right of residence
- be ordinarily resident in England on the first day of the first academic year of the course
- have 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; and
- where the three years' residence referred to above was wholly or mainly for the purpose of receiving full-time education, have been ordinarily resident in the territory comprising the EEA and Switzerland immediately prior to the start of that period of residence

Whilst a student who has been awarded the right of permanent residence before the start of a course will be eligible for support for the whole of that course providing the other criteria are satisfied, a student who is awarded the right of permanent residence after their course starts will potentially be eligible for:

- tuition fee support in any subsequent years of the course (and in the academic year the status was acquired, if the status was acquired within three months of the first day of the academic year)
- loans for living costs, Adult Dependents' Grant and Parents' Learning Allowance in any subsequent years of the course (and in the quarters following the award in the year of the award, except the quarter in which the longest vacation falls)
- maintenance grant or special support grant in any subsequent years of the course and in the quarters following the acquisition of the right of permanent residence, (if the status was acquired within three months of the first day of the academic year)\*

\* Please note that this paragraph is applicable for pre 2016 cohorts only

- Childcare Grant, Travel Grant or DSA subsequent years of the course and in all quarters following the acquisition of the right of permanent residence. See the guidance chapters, 'Grants for Dependents' and for Travel Grants 'Assessing Financial Entitlement Guidance for relevant Academic Year regarding the support available to students who become eligible during the course

**ASYLUM SEEKERS WHO HAVE BEEN GRANTED REFUGEE STATUS UNDER THE 1951 UNITED NATIONS CONVENTION, THEIR SPOUSES, CIVIL PARTNERS, CHILDREN OR STEP-CHILDREN (PARAGRAPH 4 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS).**

Those refugees and their family members claiming student support under this category must satisfy these criteria in order to potentially be eligible for support. The student must be:

- a refugee in his/her own right, ordinarily resident in the United Kingdom and Islands who has not ceased to be so resident since he was recognised as a refugee; and
- is ordinarily resident in England on the first day of the first academic year of the course

Or the student must be:

- the spouse or civil partner of a refugee and who was the spouse or civil partner of the refugee on the date on which the refugee made his application for asylum to the Home Office, ordinarily resident in the UK and Islands and has not ceased to be resident since the "leave to remain" status was awarded, and
- is ordinarily resident in England on the first day of the first academic year of the course

In cases where the spouse or civil partner separately arrived after the date refugee status was awarded, then the spouse/civil partner must have indefinite leave to enter or remain or Refugee Status in their own right.

Or the student must be:

- The child or step-child of a refugee who was his child or step-child and under the age of 18 years old on the date on which the refugee made his application for asylum to the Home Office\*

\* The child has not ceased to be resident in the UK and Islands since he was given leave to enter or remain in the UK, and

- is ordinarily resident in England on the first day of the first academic year of the course

In cases where the child arrived after the date refugee status was awarded, then the child must have indefinite leave to enter or remain or Refugee Status in their own right.

SFE must satisfy itself that all of the relevant Home Office documentation is valid.

Regulation 2(1) defines "refugee" as a person who is recognised by Her Majesty's Government as a refugee under the 1951 United Nations Convention relating to the status of refugees. A refugee is defined, in the Convention, as someone who is outside their own country of origin owing to a well founded fear of returning there because they may be persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and who is unable, or owing to such fear unwilling to avail himself of the protection of that country.

A person who has been successful in their application for refugee status will have been given a letter or Immigration Status Document from the Home Office stating that they have been granted this status.

Prior to 30 August 2005 recognised refugees were awarded indefinite leave to enter or remain (ILE/R) in the UK. However, since this date those recognised as refugees have been awarded 5 years limited leave to enter or remain in the UK (apart from those entering the UK under a resettlement scheme such as the Gateway Protection Programme). At the end of the five year qualifying period, people with refugee status will be entitled to apply for ILR. For student support purposes the important question is whether the applicant is a recognised refugee under the 1951 United Nations Convention relating to the status of refugees or is the spouse, civil partner, child or step-child of such a person granted refugee status. Documentation from the Home Office will provide evidence of this fact.

For students applying from 2009 onwards, the student support application requires students to enter the date of expiry of their or their family member's immigration status, if applicable. Before allowing student support to continue in the next academic year, SFE will be required to check whether the student is still entitled to student support. SFE should request revised documentary evidence of the student's or family member's immigration status from the Home Office.

If the student's (or family member's) case is still under review by the Home Office, or the Home Office are considering an appeal, student support should not be withdrawn. SFE will require evidence from the Home Office that this is the case before processing the student support application. The process for requesting 'status checks' from the UKBA Home Office has changed. SFE is now required to complete the attached proforma and forward it to the Home Office. The Home Office has an official 10 day Service Level Agreement (SLA) to respond to checks, however they do aim for a 5 day turnaround. Previously only named contacts could make enquiries via the helpline number; however, any assessing staff can now make enquiries using the proforma in [Annex 7](#).

Before allowing support to continue in the academic year following the expiry of the relevant immigration status, SFE will need evidence that the status, or a different qualifying immigration status has been confirmed by the Home Office, or that the Home Office is considering awarding an appropriate immigration status, or an appeal is pending. It is also possible that the student may qualify under another category, for example, as the child of a refugee.

Refugees arriving under the Gateway Protection Programme, the Mandate Refugee Scheme and the Ten or More Plan are granted immediate indefinite leave to enter.

The actual amount of support payable to the student will depend on the date the student (or family member) is granted refugee status. Whilst a person who was awarded refugee status before the start of a course, (or the family member of such a person) will potentially be eligible for support for the whole of that course, a person who is awarded refugee status after the first day of the academic year (or the family member of a person) will be eligible for:

- Loans for living costs, Adult Dependents' Grant and Parents' Learning Allowance in any subsequent years of the course (and in the quarters following the award in the year of the award, except the quarter in which the longest vacation falls);
- Childcare Grant, Travel Grant and DSA in any subsequent years of the course and in all quarters following the award of the refugee status. See the guidance on "Grants for living costs" regarding the support available to students who become eligible during the course.

- Pre 2016 cohort students only: maintenance grant or special support grant in any subsequent years of the course and in the quarters following the award of the refugee status, (if the status was acquired within three months of the first day of the academic year).
- Tuition fee support in any subsequent years of the course (and in the academic year of the award of refugee status, if the award is made within three months of the first day of the academic year).

**PERSONS WHO HAVE BEEN INFORMED BY THE HOME OFFICE THAT ALTHOUGH THEY DO NOT QUALIFY AS A REFUGEE, THEY HAVE BEEN GRANTED HUMANITARIAN PROTECTION (HP) IN THE UK, THEIR SPOUSE, CIVIL PARTNER, CHILDREN OR STEP-CHILDREN (PARAGRAPH 5 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

Regulation 2 – Interpretation provides a definition of a “person granted Humanitarian Protection” for the purposes of the Regulations. Those granted Discretionary or Limited Leave to Remain, with restrictions on the time they can remain in the UK may be eligible for support if they satisfy the requirements of the [long residency category](#).

Paragraph 5 of Part 2 of Schedule 1 is **only** concerned with students;

- who have been granted Humanitarian Protection
- who were the spouse/civil partner, child or step-child of such a person at the time of the application to the Home Office, and in the case of the child or step child, who were under 18 years old at the time of the application to the Home Office
- who have been ordinarily resident in the UK and Islands throughout the three year period preceding the first day of the first academic year of the course and is ordinarily resident on the first day of the first academic year of the course
- and whose leave to enter or remain has not expired. Please refer to Regulation 2 for a full definition of a person with HP

HP is not the same as asylum and does not constitute recognition as a refugee within the meaning of the United Nations Convention. Persons granted this status are nevertheless in genuine need of international protection.

**HP TERMS AND CONDITIONS**

Since 30 August 2005, people qualifying for leave on grounds of Humanitarian Protection have been granted leave to enter or remain, as appropriate, for 5 years in the first instance with the possibility of Indefinite Leave to Remain (ILR) thereafter. Previously the initial period granted was 3 years. Humanitarian Protection status is not granted to people who qualify for asylum or to EU nationals exercising treaty rights.

At the end of the five year qualifying period people with refugee and Humanitarian Protection status will be entitled to apply for ILR.

The student support application requires students to enter the date of expiry of their or their family member’s immigration status if applicable. Before allowing student support to continue in the next academic year, SFE will be required to check whether the student is still entitled to student support. SFE should request revised documentary evidence of their immigration status from the Home Office.

If the student's (or family member's) case is still under review by the Home Office, or the Home Office are considering an appeal, student support should not be withdrawn. SFE will require evidence from the Home Office that this is the case before processing the student support application. If SFE have difficulty confirming the situation they should email: [ssin\\_queries@slc.co.uk](mailto:ssin_queries@slc.co.uk) who will pass the query to the relevant DfE team who will provide further advice.

Before allowing support to continue in the academic year following the expiry of the relevant immigration status, SFE will need evidence that the status, or a different qualifying immigration status has been confirmed by the Home Office or that the Home Office is considering awarding an appropriate immigration status, or an appeal is pending. Consideration should also be given as to whether the student may qualify under another category.

Students with HP (or who are the family members of such a person) are not required to have been granted that leave by the first day of the first academic year of the course (or in the case of family members, the spouse, civil partner or parent does not have to have been granted HP on the first day of the first academic year of the course). Consequently, provided that they meet the relevant criteria, these students can become eligible for support during the course of an academic year.

The Home Office has issued guidance about the immigration position of persons whose current leave to enter or remain has expired or is about to expire. This guidance would cover persons who have been granted limited leave to enter or remain in the United Kingdom and who have to demonstrate that they have current leave to enter or remain in order to be eligible for student support.

It is the Department's understanding that if a person with HP applies for a further period of leave before the first period of leave has expired, then the applicant's leave may be extended by section 3C of the Immigration Act 1971. Providing the application for further leave has not been withdrawn or the applicant does not leave the United Kingdom, the first period of leave is extended for the period it takes the Secretary of State to make a decision on the renewal application.

Section 3C of the 1971 Act enables a person's limited leave to be extended where;

- an application has been made to the Secretary of State to vary the limited leave to enter or remain
- the application was made before the leave to enter or remain expired
- the leave expires before the application for variation is decided

Section 3C also sets out the circumstances in which leave can be further extended and the circumstances in which such extended leave will come to an end.

In the Department's view a person who's Humanitarian Protection has been extended under section 3C of the 1971 Act could still, potentially, satisfy the definition of a "person granted Humanitarian Protection" as set out in regulation 2 of the Regulations. Whether such a person is an eligible student or qualifies for any particular type of support available for the 2016/17 academic year will of course need to be determined in accordance with the provisions of the Regulations, as will the amount of support, if any, payable to that person.

The actual amount of support payable to the student will depend on the date the student is granted HP. Whilst a person who was awarded HP before the start of a course (or the family member of such a person) will potentially be eligible for support for the whole of that course, a person who is awarded HP after the course starts (or the family member of a person) will be eligible for:

- Loans for living costs, Adult Dependants' Grant and Parents Learning Allowance in any subsequent years of the course (and in the quarters following the award in the year of the award, except the quarter in which the longest vacation falls)
- Childcare Grant and Travel Grant and DSA in any subsequent years of the course and in the quarters following the award in the year of award, except the quarter in which the longest vacation falls. See the guidance chapters, "Grants for Dependants" and "Assessing Financial Entitlement" under Travel Grants – regarding the support available to students who become eligible during the course
- For pre 2016 cohort students only: maintenance grant or special support grant in any subsequent years of the course and in the quarters following the award of the status (if the status was acquired within three months of the first day of the academic year)
- Tuition fee support in any subsequent years of the course (and in the academic year following the award of the status if the award is made within three months of the first day of the academic year)

The Home Office has advised that SFE may send their requests to their Evidence and Enquiries (E&E) unit by fax. SFE need to be registered with the unit. Their telephone enquiry unit can also be contacted. If they are unable to deal with the enquiry, SFE would then need to contact the Immigration and National Enquiry Bureau. Fax and telephone numbers for these units can be obtained by email at [ssin\\_queries@slc.co.uk](mailto:ssin_queries@slc.co.uk). Please note this is for SFE staff only.

#### **WORKERS, EMPLOYED PERSONS, SELF-EMPLOYED PERSONS AND THEIR FAMILY MEMBERS (PARAGRAPH 6 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

Directive 2004/38/EC covers the right of citizens of the European Union and their family members to move and reside freely within the territory of the member states.

The definition of 'family member' is dependent on the category of person to whom we are referring. The table below explains this further:

<i>Category of person</i>	<i>Definition of family member</i>
An EEA migrant worker, EEA frontier worker, EEA frontier self-employed person or an EEA self-employed person	His spouse or civil partner, direct descendants under the age of 21 or dependant on the person or the person's spouse or civil partner; Or dependent (see note 1 below) direct relatives in his ascending line (see note 2) or that of his spouse or civil partner
Swiss employed person, Swiss frontier employed person, Swiss frontier self-employed person or a Swiss self-employed person	His spouse or civil partner and his children or children of his spouse or civil partner

Note 1 –"Dependent" may mean financially dependent, but dependency for reasons of health or other reasons should also be considered.

Note 2 –Direct relatives in his ascending line means parents, including adoptive or step-parents.

The Regulations do not require that migrant worker status is met on the first day of the first academic year of the course, only that the student was ordinarily resident in England on that day.

A student with “worker status” or their family member i.e. a person who satisfies the requirements to be treated as a person in the above table can become eligible for tuition fee and maintenance loans and grants during an academic year. In these circumstances the student is eligible for;

- Loans for living costs, Adult Dependents’ Grant and Parents’ Learning Allowance in any subsequent years of the course and in the quarters following the acquisition of worker status, (except the quarter in which the longest vacation falls)
- Childcare Grant, Travel Grant and DSA for the whole year of the course in which the acquisition of “worker status” is awarded for any remaining quarters following the acquisition of worker status, (except the quarter in which the longest vacation falls) and subsequent years of the course. See the guidance on “Grants for Dependents” and Assessing Financial Entitlement” regarding the support available to students who become eligible during the course
- For pre 2016 cohort students only: maintenance grant or special support grant in any subsequent years of the course and in the quarters following the acquisition of worker status (if the status was acquired within three months of the first day of the academic year)
- Tuition fee support, in any subsequent years of the course (and in the academic year in which worker status is acquired if this is acquired within three months of the first day of the academic year)

The residence criteria that must be met by those who come within paragraph 6(1)(a) is as follows:

- ordinarily resident in England on the first day of the first academic year of the course; and
- has been ordinarily resident in the territory comprising the EEA and Switzerland throughout the three-year period preceeding the first day of the first academic year of the course

Note that being ordinarily resident in England on the first day of the first academic year of the course does not apply when the person applying for support is applying as:

- an EEA frontier worker or an EEA frontier self-employed person;
- a Swiss frontier employed person or a Swiss frontier self-employed person; or
- a family member of a person mentioned in a) or b)

An SFE specialist support team will carry out the assessment of support for all students whose eligibility for support falls under Paragraph 6 or 7 of Part 2 of Schedule 1 and not under any other Paragraph of Schedule 2 other than Paragraph 9 (EU nationals). Their contact telephone number is 0300 100 0618.

In order to decide whether an EEA national can be classed as a migrant/frontier worker or a Swiss national employed in the UK, SFE should take into account the case law of the European Court of Justice. Matters to consider include:

- will (or did) the student cease work in order to start studying or will (or have) they continue(d) to work whilst studying
- is the person in an employment relationship in which they perform services in return for remuneration or self-employed

- are they pursuing an activity which is effective and genuine
- is this activity on such a small scale as to be regarded as purely marginal and ancillary

There are circumstances in which 'worker status' can be retained by a former worker or their family member. These are set out in Article 7, paragraph 3 of EU Directive 2004/38, and may also be referred to as the '*Lair*' conditions.

If, prior to the start of the course, a person lost their migrant worker status or employed person status because:

- they left work voluntarily without good reason, or
- they left work to begin a course of study which had no link to their previous employment,

They would not be eligible for support under this category.

Where the status of worker/employed person is acquired before the start of the academic year the student will be eligible to be assessed for support for the entire year. However, this is subject to the student remaining in employment throughout the academic year or, if the employment ends before the end of the academic year, the student being able to retain the status of worker by virtue of the provisions of Article 7, paragraph 3 of directive 2004/38. However, where the relevant status is acquired in-year the level of support for that year is set out in the relevant sections of the main body of the Regulations.

Applications for support must be made no later than nine months after the first day of the first academic year for which support is being applied for, or within nine months of an event listed in Regulation 17 occurring, where the event occurs after the first day of the academic year. Obtaining eligibility under paragraph 6(1) of Schedule 1 is an event listed in Regulation 17 (i.e. becoming a migrant worker).

If an application for support is received within the initial nine month period and the student subsequently wishes to apply for a new or additional amount of loan then the loan application must be received no later than one month before the end of the academic year to which the application relates.

Applications for fee support or (pre 2016 cohorts only) maintenance grants should only be processed if received within the nine month time frame set out in Regulation 9. This rule applies equally to applications for fee support and maintenance grant and applies irrespective of whether one or more applications are being submitted. Applications for support relating to previous academic years should only be processed if the applications for support were received within the time frames.

Where the relevant status is acquired in-year the level of support for that year will be as is set out in the relevant sections of the main body of the Regulations.

In some cases, the SFE assessment of whether a potential worker, employed person, or self employed person is an EEA migrant worker may need to be carried out once the course has started. This will apply in cases where the student becomes a migrant worker during their course; continues to work once their course has started, students have given up work to study, and therefore need to show a link between their studies and their previous employment. Given that students do not always attend the course for which they originally applied (for example because their exam grades are better, or worse, than expected), it will not be possible to establish with certainty whether there is the necessary link until SFE knows which course is actually being attended.

In deciding whether an EEA national can be determined to be a worker, or a Swiss national can be determined to be an employed person, SFE should look closely at the EU law meaning.

In the *Lair* case the European Court of Justice (ECJ) stated that ‘where objective factors enable it to be established that a worker is entering a member state solely for the purpose of benefiting in that country, after a very brief period of employment, from the system of student grants, such abuses are not covered by the Community provisions at issue’. In the Department’s view, this means that where it appears to SFE, having regard to all the circumstances that a person has taken up employment in the UK solely for the purpose of becoming eligible for student support it will be under no duty to bestow such support on him.

### STUDENTS WHO CEASE WORK BEFORE STARTING THE COURSE

Students who voluntarily cease work before starting their course will retain their status as migrant workers if there is a link between their work and their studies. There has been little guidance from the ECJ on what constitutes a sufficient ‘link’ between the course of study and the previous employment for these purposes. In the cases of *Lair* and *Bernini* the ECJ indicated that what was important was the relationship between the purpose or subject matter of the studies and the previous employment.

Article 7, Paragraph 3 of Directive 2004/38, sets out the circumstances in which an EEA or Swiss national who is no longer a worker or self-employed person, retains their status as a worker or as a self-employed person. SFE should note that the Department has been advised that an EEA or Swiss national is not entitled to be classified as a migrant worker for student support purposes, where they have arrived in the UK without work, are actively seeking employment but have not yet worked here.

### REMUNERATION FOR WORK

EEA or Swiss nationals who came to the UK to work but have received or receive something less than a market rate salary for their work, may still fall within the definition of a migrant worker.

In the case of *Brown* the ECJ set out a definition of a migrant worker:

*‘any person who pursues an activity which is effective and genuine, to the exclusion of activities on such a small scale as to be regarded as purely marginal and ancillary, is to be treated as a worker. The essential characteristic of the employment relationship is that for a certain period of time a person performs services for and under the direction of another person in return for which he receives remuneration.’*

The ECJ has said that ‘remuneration’ means consideration for the services in question, and therefore if someone works in exchange for, for example free food, free accommodation or an allowance, they may still be considered to be a worker.

### EFFECTIVE AND GENUINE/MARGINAL AND ANCILLARY EMPLOYMENT

In trying to decide whether a person’s employment is effective and genuine and not purely marginal and ancillary it may be relevant to consider, amongst other things, the following factors:

- *Whether the work is seasonal or temporary.* In the case of *Raulin* the Court found that in assessing the effective and genuine nature of the activity in question account should be had to the irregular nature and limited duration of the services actually performed under a contract for occasional employment.
- *Whether, but for being accepted on the course of studies, the work would be undertaken at all.* In the case of *Brown* the Court concluded that where the status of worker derived exclusively as a result of being accepted for admission to a course of study then the worker status is merely ancillary and the applicant would not be eligible for support. However, it is not the intention of the person concerned that is important but objective factors related to the employment.

- *Whether the sum paid is a market rate.* For example, if a person is employed full-time at a market rate this would be an indication that their employment was not ancillary to their studies. This does not mean that a person must be employed full-time at a market rate in order to be a worker, but employment at less than market rate, or where the employer is a family member or friend for example, may be an indicator of whether the employment is genuine.
- *The number of hours worked/whether the work is the predominant activity.* Whilst a worker can be employed on either a full-time or part-time basis and still be classed as a worker in cases where only a limited number of hours are worked this may be an indication that the employment activities are purely marginal and ancillary. In the opinion of the Advocate General in the case of Grzelczyk:
- “...the holding of occasional ‘student jobs’ will scarcely satisfy those criteria. It is indeed conceivable that a degree of alternation between study and occupational activity might be taken into account in assessing the criteria ‘marginal and ancillary’. In those circumstances, the criterion against which the occupational activity would have to be measured might be whether the vocational training was predominant.”

The Department is of the view that employment which is unlawful is unlikely to be able to satisfy the test of being effective and genuine employment. For example, Croatian nationals who have not registered their employment in accordance with the Workers Registration Scheme (WRS) will not be considered to be genuine and effective employment and thus will not be eligible for maintenance support for any period during which their employment has not been properly registered. Please note that the A8 Worker Registration Scheme was discontinued from 1<sup>st</sup> May 2011. By then the A8 countries were in the EU for over seven years and their nationals enjoy the same rights as those of established EU member states. As the scheme only required people to register if they were working for longer than one month, the practical abolition of the scheme was effective from 1<sup>st</sup> April 2011. As of from January 2014 the same applies to A2 Bulgarian and Romanian Nationals.

On July 1<sup>st</sup> 2013 Croatia joined the European Union and the following guidance applies. A student can apply for permission to work on the express basis that they are exercising a treaty right as a student. The yellow registration certificate confirming they are a student will also permit them to work up to 20 hours a week during term-time and full-time during holidays. A student working in accordance with these conditions is not exercising a treaty right as a worker. If a student wants to work for more than 20 hours a week during term-time they would have to apply for an accession worker registration certificate. A student working more than 20 hours a week and who has an accession worker card is capable of exercising a treaty right as a worker. A student claiming they are also a worker but exempt from WAS requirements must be able to prove this. To do this, they could apply to HO for a registration certificate confirming their status. They will need to provide the Home Office with evidence of 12 months previous continuous employment. A student who is exempt from worker accession registration requirements is able to exercise a treaty right as worker, however *they would still need to satisfy the ‘genuine and effective’ test to be eligible for maintenance support.* Croatsians can also exercise a treaty right as a self-employed individual. There is no requirement to register with the worker accession certificate or obtain a registration certificate before working on a self-employed basis. Where an individual wishes to be assessed as eligible for student support on the ground that they are self-employed they should be asked to provide sufficient evidence to support that claim. Evidence of self-employment will include HMRC registration, business account bank statements, invoices showing payment for services, contracts for services, business advertisements, business premises etc.

**FAMILY MEMBERS OF EEA MIGRANT WORKERS, EEA FRONTIER WORKERS, EEA FRONTIER SELF-EMPLOYED PERSONS, EEA SELF-EMPLOYED AND SWISS EMPLOYED PERSONS, SWISS FRONTIER EMPLOYED PERSONS, SWISS FRONTIER SELF-EMPLOYED PERSONS OR SWISS SELF-EMPLOYED PERSONS**

The family members of an EEA or Swiss migrant worker (as defined in Schedule 1) are eligible for support on the same basis as the migrant worker himself or herself. The nationality of the family member is not relevant.

### **FAMILY MEMBERS OF EEA MIGRANT WORKERS (INCLUDING CHILDREN)**

Children of EEA migrant workers may be eligible for support under either paragraph 6 or paragraph 7 of Schedule 1. 'Parent' refers to someone who is legally responsible for a child and is defined as including a guardian and any other person having parental responsibility for a child - this includes a step-parent.

#### **PARAGRAPH 6 – DEPENDENT DIRECT DESCENDANTS**

In order to be eligible for support under this paragraph a student must meet one of the following:

- be under the age of 21, or
- dependent on the EEA migrant worker or on the spouse or civil partner of the worker

The student must also be able to demonstrate that they have lived with a parent in the UK and at the time the parent lived here as a migrant worker. In every case the parent must have established migrant worker status in this country and the child must meet the residence conditions.

#### **PARAGRAPH 7 – CHILDREN OF FORMER EEA MIGRANT WORKERS**

To be eligible for support under this paragraph a student must be the child of someone who was an EEA migrant worker in the UK and who has remained in this country in order to complete their studies. To consider eligibility under paragraph 7, we are of the opinion that it would be reasonable to require that the child had studied here (at a level below HE) whilst they were dependent or under 21. Once eligibility is established under this paragraph, it will continue, whether or not the parent remains in the UK.

Paragraph 7 students are persons who are entitled to support by virtue of Article 12 of Council Regulation 1612/68 on the freedom of movement as workers as extended by the EEA Agreement.

Article 12 states that "The children of a national of a Member State who is or has been employed in the territory of another Member State shall be admitted to that State's general educational, apprenticeship and vocational training courses under the same conditions as the nationals of that State, if such children are residing in its territory. Member States shall encourage all efforts to enable such children to attend these courses under the best possible conditions.

The Department advises that this provision may apply to the children of EEA workers in the UK where that worker is no longer a worker here.

#### **MIGRANT WORKER COMING FROM GIBRALTAR**

"EEA migrant worker" means an 'EEA national who is a worker other than an EEA frontier worker in the United Kingdom'. As EEA national is defined as a national of an EEA state *other than the United Kingdom*, this does not include Gibraltar nationals. Gibraltar is only a part of the EEA by virtue of membership of the EU being extended to it through its connection with the UK. Gibraltar is not a Member State of the EU or EEA in its own right. Therefore EEA migrant worker status will not include Gibraltar nationals working in the UK.

## **PERSONS WHO ARE SETTLED IN THE UNITED KINGDOM AND HAVE EXERCISED A RIGHT OF RESIDENCE ELSEWHERE (PARAGRAPH 8 OF PART 2 OF SCHEDULE 1)**

Specific provision is made for persons who are settled in the UK and who once left England to exercise a right of residence after having been settled in the UK. Paragraph 8(2) sets out when a person has exercised a right of residence for the purpose of paragraph 8(1)(b).

The following are some examples of situations where a person has exercised a right of residence for the purpose of paragraph 8(1)(b):

- a UK national exercises a right under Article 7 of Directive 2004/38 in another Member State (e.g. a UK national goes to work in France)
- a UK national exercises a right under the EEA Agreement or the Swiss Agreement that is equivalent to a right under Article 7 of the Directive (e.g. a UK national goes to work in Iceland)
- a family member of a UK national exercises a right under Article 7 of Directive 2004/38 in another Member State (N.B. family member has the meaning in Article 7 of Directive 2004/38) (e.g. the American wife of a UK national accompanies him when he goes to work in Germany)
- a family member of a UK national exercises a right under the EEA Agreement or the Swiss Agreement that is equivalent to a right under Article 7 of the Directive (N.B. family member has the meaning given in relation to the right being exercised under the EEA Agreement or Swiss Agreement) (e.g. the Chinese husband of a UK national accompanies her when she goes to work in Norway)
- a person who has acquired the right of permanent residence in the UK (as defined in the Regulations) exercises a right under Article 7 of Directive 2004/38 in a Member State other than the UK (e.g. the Moroccan civil partner of a Spanish national who has been working in the UK acquires the right of permanent residence in the UK and then goes to the Netherlands with his Spanish national civil partner who is taking up a job there)
- a person who has acquired the right of permanent residence in the UK (as defined in the Regulations) exercises a right under the EEA Agreement or the Swiss Agreement that is equivalent to a right under Article 7 of the Directive
- a person who has acquired the right of permanent residence in the UK (as defined in the Regulations) goes to the state within the territory comprising the EEA and Switzerland of which he is a national or of which the person in relation to whom he is a family member is a national\*

\* For example the Moroccan national and his Spanish national civil partner from the example above go to Spain instead of the Netherlands. They would not be exercising rights under Article 7 of the Directive but paragraph 8 of Schedule 2 does allow a return to the student's own Member State or that of the person in relation to whom the student is a family member to count as an exercise of the right of residence.

The other requirements that need to be satisfied are as follows. The applicant must:

- be ordinarily resident in UK on the day on which the first term of the academic year actually begins
- have been ordinarily resident in the territory comprising the EEA and Switzerland for the three-year period preceding the first day of the first academic year of the course; and

- where the three-year residence period referred to above was wholly or mainly for the purpose of receiving full-time education, has been ordinarily resident in the EEA and Switzerland immediately before that period of residence

An example of when paragraph 8 of Schedule 1 might be relevant is where a family of UK nationals who are ordinarily resident in the UK leaves England to live in Spain, with the parents going as workers and the children accompanying them. If the daughter returns to the UK aged 18 to enter HE, she may be eligible for support under paragraph 8 of Schedule 1 if she satisfies the relevant provisions.

Students who commenced their course in September 2009 or later who are settled in the UK and exercise a right of residence anywhere in the EEA or Switzerland for a period in excess of 3 months then return to the UK and apply for support within 3 years of their return, should apply to the UK territory that they were resident in before they left the UK, regardless of the territory they are resident in once returned to the UK.

#### **PERSONS WHO ARE SETTLED IN THE UK AND MOVE TO GIBRALTAR THEN RETURN TO UK BEFORE 1ST DAY OF 1ST ACADEMIC YEAR**

“UK national” includes Gibraltar nationals, whereas the UK as a physical territory includes only Great Britain and Northern Ireland, and not Gibraltar.

A person who is settled in the UK, moves to Gibraltar, and then returns to the UK before the first day of the first academic year would not be exercising a right of free movement under paragraph 8 of Schedule 1 of the Student Support Regulations. The EC treaty is only extended to Gibraltar by virtue of its connection with the UK, because it is a “European territory for those external relations a Member State is responsible” (Article 299(4)). Article 7 of Directive 2004/38 relates to a right of residence on the territory of another Member State and therefore can only apply if an individual exercises a freedom of movement in *another Member State*.

As Gibraltar is not a Member State in its own right, a UK resident going to Gibraltar is not moving to another Member State. For paragraph 8 to apply to a Gibraltar national they would have had to have gone from the UK to another Member State (e.g. France) before returning to the UK.

#### **EU NATIONALS AND THEIR FAMILY MEMBERS (PARAGRAPH 9 OF PART 2 OF SCHEDULE 1)**

EU nationals and their family members must satisfy the residence conditions in Paragraph 9 of Part 2 of Schedule 1 in order to potentially be eligible for support. However, this category of student may only qualify for tuition fee support.

The relevant family members of EU nationals are set out in the table below:

EU national who falls within Article 7(1)(c) of Directive 2004/38 (not self-sufficient)	His spouse or civil partner and direct descendants of his or of his spouse or civil partner who are under the age of 21 or dependants of his or his spouse/civil partner
EU national who falls within Article 7(1)(b) of Directive 2004/38 is self-sufficient	His spouse or civil partner, direct descendants of his or his spouse or civil partner who are under the age of 21 or dependants of his or his spouse or civil partner or dependent direct relatives of his or his spouse or civil partner in the ascending line

The table above refers to ‘self-sufficient’ (although this is not a term used in the Regulations). The Regulations refer to article 7(1)(b) of Directive 2004/38. This provides that a person has a right to reside in a host Member

State if the person has sufficient resources for himself/herself and family members not to become a burden on the social assistance system of the host Member State during their period of residence and has comprehensive sickness insurance cover in the host Member State.

In other words, it is not appropriate to say that someone does not have sufficient resources if their resources are higher than the level at which social security benefits or the social security pension is paid. A means test is not necessary to establish self-sufficiency, and SFE must remain flexible in their assessment.

A student who becomes an EU national within three months of the start of the academic year, because their State joins the EU, may be eligible for fee support for that academic year. They may also be eligible for fee support for any subsequent year (regulations 2 and 16).

Under Paragraph 9(3) of Part 2 of Schedule 1 where a state accedes to the EU after the first day of the first academic year of the course and a person is a national of that state, the requirement that he is an EU National on the first day of the first academic year of the course or a family member of such a person would be treated as being satisfied. Where a person is claiming under paragraph 9, on the basis that he is the family member of an EU national and the state of which his relative/spouse/civil partner is a national accedes to the EU after the first day of the first academic year of the course, the relative/spouse/civil/partner is treated as having been an EU national on the first day of the first academic year of the course.

Students who fall within Paragraph 9 of Part 2 of Schedule 1 will not be required to have settled status in the UK or to be ordinarily resident in England on the first day of the first academic year of the course but as with EEA migrant workers, they should have been resident in the EEA and Switzerland for the three years preceding that day. The SFE European Team in Darlington will carry out the administration of all EU students and their family members falling under Paragraph 9 of Part 2 of Schedule 1. Their telephone number is 0141 243 3570.

#### **EU NATIONALS WITH A “GENUINE LINK” WITH THE UK UNDER PARAGRAPH 10A OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS - APPLICATIONS FOR SUPPORT RECEIVED AFTER 25<sup>TH</sup> MARCH 2016**

EU Nationals (other than UK nationals) with a “genuine link” with the UK may be eligible for tuition fee support and loans for living costs and grants for living and other costs if on the first day of the first academic year of the course they satisfy the following:

- has been ordinarily resident in the UK and Islands throughout the five year period immediately prior to this date (applicants applying under this category will be asked to submit evidence to prove their five year residency)
- is ordinarily resident in England
- where the period of ordinary residence above was wholly or mainly for the purpose of receiving full-time education, the student was resident in the EEA and/or Switzerland prior to the three year period above

To be eligible for support under paragraph 10, a person must be an EU national on the first day of the first academic year of the course. Where his state joins the EU after that date, he is treated as if he were an EU national on the first day of the first academic year of the course.

#### **EU NATIONALS WITH A “GENUINE LINK” WITH THE UK UNDER PARAGRAPH 10 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS – APPLICATIONS FOR SUPPORT RECEIVED BEFORE 25<sup>TH</sup> MARCH 2016**

EU Nationals (other than UK nationals) with a “genuine link” with the UK may be eligible for tuition fee support and loans for living costs and grants for living and other costs if on the first day of the first academic year of the course they satisfy the following:

- has been ordinarily resident in the UK and Islands throughout the three year period immediately prior to this date (applicants applying under this category will be asked to submit evidence to prove their three year residency)
- is ordinarily resident in England
- where the period of ordinary residence above was wholly or mainly for the purpose of receiving full-time education, the student was resident in the EEA and/or Switzerland prior to the three year period above

To be eligible for support under paragraph 10, a person must be an EU national on the first day of the first academic year of the course. Where his state joins the EU after that date, he is treated as if he were an EU national on the first day of the first academic year of the course.

#### **CHILDREN OF SWISS NATIONALS (PARAGRAPH 11 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

A student is potentially able to qualify for support where:

- is the child of a Swiss national entitled to support in the UK under the Swiss Agreement
- is ordinarily resident in England on the first day of the first academic year of the course
- has been ordinarily resident in the EEA and Switzerland throughout the three year period preceding this date
- where residence in the EEA and Switzerland was wholly or mainly for the purpose of receiving full-time education, was ordinarily resident in the EEA or Switzerland immediately prior to this period

For students who commence a course in the 2013/14 academic year or later, the parent(s) of the ‘child of a Swiss national’ must be exercising their free movement rights in the UK on the first day of the first academic year of the course for the student to be eligible to apply for the **full** package of support (tuition support, maintenance support and supplementary grants). If the student becomes the ‘child’ by one of their parents marrying a Swiss national, or if the child’s parent(s) move to the UK to live after the start of the course they would be entitled to the following:

- Loans for living costs, Adult Dependents’ Grant and Parents’ Learning Allowance in any subsequent years of the course and in the quarters following the acquisition of child of a Swiss national status, (except the quarter in which the longest vacation falls)
- Childcare Grant, Travel Grant and DSA for the whole year of the course in which the acquisition of child of a Swiss national status is awarded for any remaining quarters following the acquisition of worker status, (except the quarter in which the longest vacation falls) and subsequent years of the course. See the guidance chapter, “Grants for Dependents” and the “Assessing Financial Entitlement” guidance – regarding the support available to students who become eligible during the course
- for pre 2016 cohort students, maintenance grant or special support grant in any subsequent years of the course and in the quarters following the acquisition of child of a Swiss national status (if the status was acquired within three months of the first day of the academic year).

- Tuition fee support, in any subsequent years of the course (and in the academic year in which the child of a Swiss national status is acquired if this is acquired within three months of the first day of the academic year)

#### **CHILDREN OF TURKISH WORKERS (PARAGRAPH 12 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

A student is potentially able to qualify for support where:

- He is the child of a Turkish worker. Regulation 2 defines such a worker as a Turkish national who is ordinarily resident in the United Kingdom and Islands, and is, or has been lawfully employed in the United Kingdom (this includes periods of self employment);
- he is ordinarily resident in the United Kingdom on the first day of the first academic year of the course; and
- he has been ordinarily resident in the EEA, Switzerland and Turkey throughout the three year period preceding the first day of the first academic year of the course.

#### **LONG RESIDENCE (PARAGRAPH 13 OF PART 2 OF SCHEDULE 1 TO THE REGULATIONS)**

Effective 6 June 2016 the Department introduced a new eligibility category for student support for those with long residence in the UK. The new long residence category extends eligibility for student support to those persons who are:

- under 18 years of age and who have lived in the UK for at least 7 years prior to the first day of the first academic year of their course; or are
- aged 18 years and above and who have either spent at least half their life in the UK or at least 20 years in the UK prior to the first day of the first academic year of their course.

To be eligible for support under this category the student must also:

- be ordinarily resident in England and have ordinary lawful residence in the UK and Islands throughout the three year period immediately prior to the first day of the first academic year of their course;
- and not have moved to the UK and Islands wholly or mainly for the purposes of education.

Ordinary residence means lawful residence and the student must hold some form of leave to remain issued by the Home Office, for example Limited Leave or Discretionary leave to Remain or another form of leave. If a student has moved from one period of leave to another during the three years preceding the first day of the first academic year their leave must run concurrently, i.e. the application for the second period of leave was made in time before the first period elapsed. A break in leave will mean that the student was here unlawfully and they will not satisfy the ordinary residence requirement.

Those students applying for support mid-course will have to have met the requirements by **the first day of the first academic year of their course**, but will not qualify for support for previous years. Payments will apply from the academic year of application. The package of student support available or funding cohort, for example '2012 cohort' or '2016 cohort', will be determined based on the first academic year of the student's course.

Those students, who only meet the criteria after the first day of the first academic year of their course, are not eligible for support for the duration of their course. The long residence category does **not** have 'Event' status pursuant to Regulation 17.

The onus is on the student to demonstrate that they meet the long residence requirements. SFE must be satisfied, through a combination of Home Office checks and evidence, that the student is eligible under this category. SFE will accept valid Home Office documentation showing the date of entry into the UK. It should be noted that a valid entry clearance visa, such as a visitor visa is not in itself confirmation the student entered the UK at that time. Individuals usually receive entry clearance for a 6 month period of time. Only a confirmed entry date from Immigration control and verified by the Home Office would be evidence of entry to the UK.

Where a Home Office check or documentation does not provide a definitive entry date into the UK, SFE will consider other forms of evidence on a case by case basis. Other forms of evidence may include (but not limited to):

- school letter and records on headed paper, signed by someone in authority (Deputy Head, Head etc) within the school, stating the dates each year the student was in attendance;
- letter from a GP;
- confirmation of university / college attendance;
- council tax bill;
- wage slips / P60 / P45 / Self Assessment Tax Return; or
- confirmation of employment from employer on company headed paper signed by a senior member of staff with contact details provided.

It should be established that the student is resident in England and has three years ordinary lawful residence throughout the period immediately preceding the first day of the first academic year of the course before any further evidence is requested.

The calculation for long residence is determined by the student's age at the first day of the first academic year of their course, and their entry date to the UK (or relevant other evidence demonstrating they were living in the UK throughout the required period). This will mean that the 7 year, half-life or 20 year calculation can be determined by the first day of the first academic year of the course.

It should be noted that a similar category has been introduced into the NHS Bursary rules. Even if the student is assessed as meeting the rules of the NHS Bursary scheme the checks should still be made by SFE if the student applies for a reduced level maintenance loan.

Consideration should be given as to whether the student may qualify under another category. In some cases a student may not meet the terms of the new long residence category but if they are a non EEA national and related to a British or EU citizen they may qualify for a tuition fee loan under Paragraph 9 of Part 2 of Schedule 1 of the Regulations.

## **EU MEMBER STATES**

The following countries are EU Member States:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

From the date of accession, a state that has joined the EU or the EEA is considered to have always been part of the EEA (Paragraph 1(6) of Part 1 of Schedule 1). This will mean that students who have lived within that state for 3 years or more (or a combination of that state and existing EEA countries or Switzerland), prior to the commencement of their course, may be able to satisfy the EEA/Switzerland residence requirement. The amount of support and the period in respect of which support may be payable is determined in accordance with the main body of the Regulations.

Regulation 17 provides that a student may qualify for fee support during the course of the academic year in which the state of which they are a national or one of their family members (as defined in Part 1 of Schedule 1) is a national accedes to the EU. A student will only qualify for fee support for the academic year in which that event occurs if it occurs within the first three months of the start of the academic year. For example a country joins the EU on 1 January 2017. Students who are nationals of that country or family members of nationals of that country and whose academic start date was 1 September 2016 would not qualify for fee support for the 2016/17 academic year. They may, however, qualify for fee support for the 2017/18 academic year onwards.

## **GENERAL**

### **ELIGIBILITY FOR FEE AND LIVING COSTS SUPPORT AND DETERMINATION OF STANDARD ENTITLEMENT**

The personal eligibility requirements covered earlier in this guidance (regulation 4) apply both to support for fees and support for living costs. Additional eligibility requirements are described in this section for fee loans for current system students (Part 4, Chapter 3 - regulation 19 covers the general criteria which determine the availability of fee support for current system students).

The term 'fees', for this purpose, has the meaning given in section 41(1) of the Higher Education Act 2004. Section 41(1) of that act provides that fees mean fees in respect of, or otherwise in connection with, undertaking the course including admission, registration, tuition and graduation fees other than:

- fees payable to an institution for awarding or accrediting any qualification where the institution does not provide the whole or part of the course and it is not a publicly funded institution (within the meaning of section 41(2) of the 2004 Act)
- fees payable for board or lodging
- fees payable for field trips (including any tuition element of such fees)
- fees payable for attending any graduation or other ceremony
- such other fees as are prescribed by regulations made by the Secretary of State (in relation to England) or the Welsh Government (in relation to Wales)

Eligibility requirements are set out separately for grants for living and other costs under Part 5 of the Regulations and for loans for living costs under Part 6. Provided that students meet those eligibility requirements and the general eligibility requirements in Part 2 of the Regulations, they will be eligible for grants and loans for living costs in respect of attendance on the course.

A student who started his course on or after 1<sup>st</sup> September 2006 may be eligible for a tuition fee loan, loan for living costs, long courses loan (or the extra weeks element of loan for living costs), disabled students' allowance, grants for dependants, grant for travel and either the maintenance grant or the special support grant. There are exceptions to these principles.

A student will not qualify for fee support in an academic year which is a bursary year (defined in regulation 2(1)) or an ERASMUS year for (i) a course provided by an institution in England or Wales that began before 1<sup>st</sup> September 2012 or (ii) a course provided by an institution in Northern Ireland or Scotland (defined in regulation 2(1)) or when the student is on a flexible postgraduate ITT course (defined in regulation 2(1) which lasts less than six weeks). Also, students are not eligible for grants for living costs for any academic year which is a bursary year (as defined in regulation 2(1)).

Current system students who commenced their current course on or after 1st September 2009 will generally not be eligible for fee support for a further course if that course is equivalent or lower in level than their previous course (taken in the UK or overseas). Current system students who started their current course before 1st September 2009 will generally not be eligible for fee support for a further course if they already have an Honours degree from a UK institution.

Pre 2016 cohort students only: where a student is ruled out of tuition fee support due to their previous study (for more information see [years of previous study](#) below) or because they already have an Honours degree from a UK institution (for those who started their current course prior to 1 September 2009) or they already hold an equivalent or higher level qualification from a UK or overseas institution (for those who started their current course on or after 1<sup>st</sup> September 2009), they will not qualify for Maintenance Grant (regulation 56(3)) or Special Support Grant (regulation 60(3)).

The loan for living costs is available to eligible students who do not already have a UK Honours Degree for those who started their current course before 1<sup>st</sup> September 2009 or do not hold an equivalent or higher level qualification from an institution in the UK or elsewhere for those who started their current course on or after 1<sup>st</sup> September 2009. Where a student has already achieved an Honours Degree or an equivalent or higher level qualification, they will not qualify for the loan for living costs unless one of the exceptions listed in regulation 69(2) (current system students) applies.

All students will continue to have access to *supplementary grants* (e.g. *Disabled Students' Allowances*, *Childcare Grant*) provided that they meet the other eligibility criteria applicable.

#### **ELQS AND PREVIOUS STUDY CHANGES FROM ACADEMIC YEAR 2009/10 ONWARDS**

It is the intention that funding should be focussed on those students studying in higher education for the first time and that students should only be funded for one undergraduate degree to honours level. The Student Support Regulations state that a person who studies for a qualification which is deemed to be equivalent to or lower than a qualification they already hold are not entitled to financial support i.e. tuition fee loans or maintenance grants/loans. This rule applies whether their previous qualification was:

- studied in the UK or elsewhere
- self-funded or publicly-funded
- studied on a full-time, full-time distance learning, compressed or part-time basis

Under regulation 2(5) the Secretary of State has the discretion to determine what is an equivalent or lower qualification where the qualification already held is of a level which is equivalent to or higher than the qualification to which the current course leads and the qualification held is an Honours degree.

When assessing applications for student support from students who wish to study a second higher education qualification, the Department is of the opinion that assessors should take into account a range of factors in assessing the level of the second degree, and hence whether it is a qualification which is equivalent to or lower than their first qualification. These include: the whole qualification, the title and final award, the entry

requirements for the qualification and how the final award allows progression to postgraduate qualifications. They may also seek advice from the higher education institution or awarding body. Furthermore, if the HE qualification which someone already holds is an honours degree from a UK HEI, then consideration does not need to be given to the academic level of the course: it is automatically an ELQ. The following table sets out the academic levels as considered for the Regulations, however, the list is not exhaustive.

E	Masters MBAs PGCE
D	Honours Degree LLB Integrated Masters Medicine, Dentistry and Veterinary courses Scottish MA's Oxford and Cambridge MA's
C	Ordinary Degree
B	HNDs Dip HE Foundation Degrees
A	HNCs Cert HE

### **INTEGRATED MASTERS**

For the purpose of providing student support, an integrated masters is an undergraduate entry first degree the same as an Honours degree and should therefore be treated in the same way when assessing eligibility for student support. Therefore, students who hold an Honours degree and subsequently undertake one of these courses are not entitled to any further support.

Please note that the above table applies to undergraduate package only. Separate guidance for Postgraduate Loans will be published in due course.

### **MEDICINE, DENTISTRY, VETERINARY SCIENCE, ARCHITECTURE, SOCIAL WORK, COURSES WHICH ATTRACT AN NHS BURSARY AND INITIAL TEACHER TRAINING (ITT) COURSES**

The Student Support Regulations make an exception for students taking courses in medicine, dentistry, veterinary science, architecture, social work and undergraduate Initial Teacher Training (ITT). Students will continue to be eligible for loans for living costs, even if they already hold an equivalent or higher level qualification. Please note that medicine, dentistry and veterinary science courses may be listed as level 7 on the QAA framework. The Framework does not form part of the Student Support Regulations and for the purpose of providing student support such qualifications should be treated as equivalent to an Honours degree. Therefore, students who already hold an Honours degree or the equivalent qualification and are studying these courses as a second undergraduate degree, will not be eligible for any further fee support or maintenance grant.

Students eligible to apply for a means-tested NHS bursary will continue to be eligible for a reduced rate loan whether or not they already hold an equivalent or higher level qualification. Please note that not all healthcare and paramedic courses attract NHS funding.

From AY 2012/13 onwards, graduates entering a graduate entry accelerated medical and dental programme are allowed some tuition support in addition to maintenance loan. Please see Annex 1 point 6 for more detail. Note graduates entering the 5/6 year undergraduate medical and dental programmes are ineligible for the tuition fee loan.

## POSTGRADUATE QUALIFICATIONS

Postgraduate qualifications are taken into account when assessing previous study. Therefore, students who have already attained a postgraduate qualification and subsequently undertake an undergraduate course are not entitled to any further funding unless they fall into one of the specified exceptions.

### Postgraduate loans (Master's courses)

From AY 2016/17, the government is providing loan support of up to £10,000 per student for postgraduate Master's courses. For more information please see the "Postgraduate Loans" guidance for AY 16/17.

## ITT COURSES

Students starting full-time ITT courses of up to 2 years in length will be eligible to apply for the full package of fee and maintenance support even if they hold an equivalent or higher level qualification.

## HOLDERS OF SUB DEGREES EG LOWER LEVEL QUALIFICATIONS SUCH AS HNCs, HNDS, FOUNDATION DEGREES ETC

Where a student has achieved a lower level HE qualification on a full-time, part-time, full-time distance learning or compressed degree basis, wherever obtained and however funded, fee and maintenance support will be available to top up to a qualification that is at a higher level than the one they already hold. It does not allow funding to complete a second full-length course. Previous study must be taken into consideration in making the calculation for the duration of that support. This will apply whether or not the current course is being undertaken immediately after the lower level HE qualification (disregarding any intervening vacation).

Holders of an HNC, HND, Dip HE, Cert HE or foundation degrees who are studying for an Honours degree should have their entitlement to fee support calculated in accordance with regulation 22. Please note that ALL preliminary courses previously undertaken should be taken into account when assessing further entitlement to fee support.

For example: A student has studied for 1 year on an HNC, 2 years on an HND and now wishes to study on a 3 year degree course from year 1 .

The current course starts on or after 1<sup>st</sup> September 2009 therefore their entitlement is calculated in accordance with regulation 22(5) taking into account all previous courses as follows:

**(D + X) – PrC**

In this case D = 3

X = 2

PrC = 3

$3 + 2 - 3 = 2$

The student will have to self fund their fees in the first year but will pick up fee support from year 2. They will be entitled to maintenance loan and supplementary grants for the full duration of the course.

Please see [exit awards](#) section for further explanation on when regulation 21 and 22 is used. In all other circumstances entitlement should be calculated in accordance with regulation 21.

For example:

A student has studied on a 1 year Cert HE and now wishes to study on a 2 year HND.

The student's entitlement is calculated using regulation 21 as follows:

$(OD + 1) - PC$

OD is the ordinary duration of the current course and is therefore 2

PC are the years spent on the previous course and is therefore 1

$2 + 1 - 1 = 2$  years

The student will be entitled to apply for fee support for the full duration of the HND.

### ORDINARY TO HONOURS

Students who hold an ordinary degree can receive further funding to top-up to Honours degree level. Fee entitlement for these students should be calculated in accordance with regulation 21.

There may be certain circumstances where a student wishes to enrol on a stand alone, 1 year 'top up' course. Fee support should be calculated in accordance with regulation 21. The top up course should be treated as a 3 year course to allow these students to receive support to top up to an honours degree.

### EXIT AWARDS

Students who start an Honours degree and do not complete that course, but are awarded a lower level HE qualification or an exit award will be assessed under [regulation 21 \(previous study\)](#). There is a possibility for CPR to be awarded for failing to complete the original course.

Students awarded a lower level exit qualification as an exit award, who had not started out on an honours degree will have any further entitlement calculated in line with regulations 22(2) and 22(5).

Where a student withdraws from their course after successfully completing enough credit for their HEP to award them an exit qualification, the student holds previous study and a lower level qualification. When the student returns to study, their remaining entitlement to tuition loan is calculated in accordance with either regulation 21 or 22. Students who qualify for a tuition loan may qualify for Maintenance Grant (MG) or Special Support Grant (SSG) in line with regulation 56. Whether regulation 21 or 22 is applied will depend on the course that the student started out on.

Where the course the student started out and withdrew from, with an exit qualification, was a degree course (with or without Honours), the student's entitlement to tuition loan and whether they qualify for MG/SSG for the new course is calculated in accordance with regulation 21. In this case the student has taken in whole or in part a full-time first degree, therefore regulation 22 does not apply (Regulation 22(2)(c)).

Where the course the student commenced and withdrew from, with an exit qualification was a course mentioned in paragraph 2, 3 or 4 of schedule 2, or a foundation degree, (*in most cases, but not all, the exit qualification awarded is a Cert HE*) when the student returns to study their entitlement to tuition loan and whether they qualify for MG/SSG for the new course is calculated in accordance with regulation 22. Please see [Annex 9](#) for examples.

## PREVIOUS STUDY

The general principle is that eligible students can have tuition fee support for the standard length of their HE course plus an additional year if needed. The number of years full support available for their current course will, however, generally be reduced if the student has studied on a previous HE course. For example, students who commenced study in the 2016/17 academic year who have studied on a previous full-time course, including compressed degree, distance learning or initial teacher training courses at a publicly funded UK or overseas institution where a qualification was not achieved, will have the number of years of support available to them reduced by the number of years of previous study.

Previous part-time study which did not lead to a qualification and self-funded study at a private institution which did not lead to a qualification are not taken into account for previous study purposes. Students who commenced a new period of study prior to 2009/10 and do not have a UK Honours Degree only have the years of study on any previous full-time (or part-time ITT) courses at publicly funded UK institutions taken into account.

Where previous study was undertaken but no qualification attained then regulation 21 should always be used to assess further entitlement for fee support and whether they qualify for Maintenance Grant / Special Support Grant.

The previous study rules apply to fee loans only (2016 cohort students) or fee loans and Maintenance Grant / Special Support Grant (all other current system cohorts). The rules do not apply to supplementary grants, such as the Disabled Students' Allowances or Childcare Grants.

## DEFINITION OF A PREVIOUS COURSE

Regulation 12 sets out what is a previous course for the purposes of Part 4 of the Regulations (tuition fee support). Generally a course is a "previous course" if:

- a) The current course began before 1<sup>st</sup> September 2009, and paragraph (d) does not apply, any full-time higher education course, part-time course for the initial training of teachers or a specifically designated course which the student attended or, in the case of a compressed degree course or a distance learning course, undertook before the current course and which meets one or both of the conditions below:
  - the course was provided by an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the student attended or undertook the course; or
  - a scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student's attending or, in the case of a compressed degree course or a designated distance learning course, undertaking the course in respect of tuition fees was from public funds or funds attributable to public funds.
- b) Where the current course begins on or after 1<sup>st</sup> September 2009, and paragraph (d) does not apply, a full-time or part-time higher education course, part-time course for the initial training of teachers or a specifically designated course, which the student attended or, in the case of a compressed degree course or a distance learning course, undertook before the current course, and where the student achieved a qualification.
- c) Where the current course begins on or after 1<sup>st</sup> September 2009, and paragraph (d) does not apply, a full-time higher education course, part-time course for the initial training of teachers or a specifically

designated course which the student attended, or in the case of a compressed degree course or a distance learning course, undertook before the current course where the student studied but did not achieve a qualification and which meets one or both of the conditions below:

- the course was provided by an institution whether or not in the United Kingdom which was publicly funded for some or all of the academic years during which the student attended or undertook the course; or
  - any scholarship, exhibition, bursary, grant, allowance, or award of any description which was paid in respect of the student's attending or, in the case of a compressed degree course or a distance learning course, undertaking the course in respect of tuition fees was from public funds or funds attributable to public funds.
- d) Where the current course begins on or after 1<sup>st</sup> September 2009, and the student's status as an eligible student has been transferred to the current course from a course which began before the 1<sup>st</sup> September 2009, a full-time, higher education course, part-time course for the initial training of teachers or a specifically designated course, which the student attended or, in the case of a compressed degree course or a distance learning course, undertook before the current course and which meets one or both of the conditions below:
- the course was provided by an institution in the United Kingdom which was publicly funded for some or all of the academic years during which the student attended or undertook the course; or
  - any scholarship, exhibition, bursary, grant, allowance or award of any description which was paid in respect of the student's attending or, in the case of a compressed degree course or a distance learning course, undertaking the course in respect of tuition fees was from public funds or funds attributable to public funds.

#### YEARS OF PREVIOUS STUDY

Once it has been determined that the student has been on a previous course, paragraphs (7) to (12) of Regulation 12 set out which years of that previous course count as previous study for the purposes of Regulations 21 and 29.

The general rules are:

- all academic years that the student completed on the previous course are included; and
- an academic year that the student started but did not complete or began part way through the year is treated as one academic year (regulation 12 (8)(b)).

Despite these general rules,

- where a student who started their current course before 1<sup>st</sup> September 2009 did not qualify for fee support for an academic year of the previous course (the 'relevant year') other than as a result of the relevant year being a bursary or Erasmus year and he qualified for fee support for some but not all of the academic years of the previous course, the relevant year is not to be treated as a year spent on the previous course (regulation 12(8));
- where the student repeated a year of the previous course for compelling personal reasons, that year is not to be treated as a year spent on a previous course (regulation 12(9));

- where the student qualified for fee support for an academic year of the previous course (the 'relevant year') because he failed to complete a previous course for compelling personal reasons, the relevant year is not to be treated as a year spent on a previous course (regulation 12(9))
- where the student transfers from one course (first course) to another before completing the academic year from which he is transferring, the time spent on the first course during that academic year is not counted as a year spent on a previous course (regulation 12(10))
- where the student undertook a previous course but was not in attendance because of a reason relating to his disability, the relevant year is only to be treated as a year spent on the previous course if it began on or after 1<sup>st</sup> September 2006 (regulation 12(11))

### EXCEPTION FOR ITT COURSES

Students who intend to take a full-time course of initial teacher training (ITT) of not more than two years (or a part time course the duration of which is not more than four years) are exempt from the previous study rules for fee support and (for pre 2016 cohorts only) Maintenance Grant / Special Support Grant unless they are already qualified teachers. For Part time ITT courses starting on or after 1<sup>st</sup> September 2010 and before 1<sup>st</sup> September 2012, the minimum intensity of study required is 50% of an equivalent full time course for the duration of the course; for courses starting on or after 1<sup>st</sup> September 2012, the minimum intensity of study is 25% of an equivalent full time course for each year if the course and for the duration of the course.

Qualified teachers are those who are assessed as meeting the Department for Education's Teachers' Standards and issued with a Qualified Teacher Status (QTS) certificate by the National College for Teaching and Leadership (NCTL) (previously the Teaching Agency). Teachers in Further Education colleges who have achieved QTLS (Qualified Teacher Learning and Skills) status but who have not been issued with a QTS certificate may be eligible for fee support and (for pre 2016 cohorts only) Maintenance Grant / Special Support Grant for a further ITT course.

### COMPELLING PERSONAL REASONS (CPR) – CURRENT SYSTEM STUDENTS

Regulations 19(10) and 30(1) make provision for a year of fee support - in addition to the standard entitlement to be allocated - in certain circumstances where students need to repeat a year of the current course for compelling personal reasons. Generally, academic performance alone would not normally be deemed a compelling personal reason but SFE should consider all cases carefully.

A student cannot be allocated an additional year for compelling personal reasons unless the year to be repeated was a qualifying year of study (as defined in regulation 2) and the year of repeat study is not a bursary or Erasmus year. The exclusion of the Erasmus year is only applicable where the Erasmus year was undertaken as part of a course provided by (i) an institution in England or Wales that began before 1<sup>st</sup> September 2012 or (ii) by an institution in Northern Ireland or Scotland.

Additionally, Regulation 19(8) provides that where a current system student to whom regulation 21 applies did not complete the most recent previous course because of compelling personal reasons, fee support is available in respect of the first year that the student takes of the current course that is not a bursary or Erasmus year. The exclusion of the Erasmus year is only applicable where the Erasmus year was undertaken as part of a course provided by (i) an institution in England or Wales that began before 1<sup>st</sup> September 2012 or (ii) by an institution in Northern Ireland or Scotland. Provided that it was the most recent course that the student withdrew from for compelling personal reasons, it does not matter how long ago he withdrew from that course.

The student will need to apply for fee support for any year for which they wish to claim support due to compelling personal reasons. Only one such year can be awarded at a time.

Where a student has failed a year for compelling personal reasons, an additional year will need to be added to the current course and the CPR year taken as the repeat year. In these circumstances, if the student fails the repeat year and SFE determines that the CPR criteria have been met then a further CPR year may be awarded. However, if CPR does not apply, then SFE will need to assess whether the student has sufficient standard entitlement remaining to complete the course with fee support for all remaining years of the course (including the possibility of allocating fee support to a year of repeat study where the year is repeated for reasons other than CPR) or whether self funding is required for some of them.

#### **EVIDENCE OF COMPELLING PERSONAL REASONS FOR CURRENT SYSTEM STUDENTS**

As far as is reasonably practicable, evidence should be obtained from the student or elsewhere to support a claim that the withdrawal was for compelling personal reasons or the need to repeat a year is for compelling personal reasons. For instance, the student might be able to provide medical evidence from his GP; or perhaps a HE Provider's student support advisory service could (with the student's permission) attest to a personal or family crisis. Other possible sources might include social services or the clergy. (However, the Department would not reimburse any costs incurred by the student in obtaining such evidence.) This guidance is not exhaustive and SFE should look at all cases carefully.

#### **SELF-FUNDED YEARS – CURRENT SYSTEM STUDENTS**

When allocating fee support from the standard entitlement to the remaining standard academic years of the course, it may be the case that there is insufficient standard entitlement to allocate fee support to all of those years. The student will need to self-fund the tuition fees in the years to which support has not been allocated.

The standard entitlement cannot be allocated to non-standard academic years of the course. However, a student who is required to repeat a year of the course for reasons other than compelling personal reasons may still be eligible for fee support for that academic year. A student who is not repeating will need to self-fund his tuition fees for the relevant repeat year.

#### **STUDENTS WHO ATTEND A FULL-TIME COURSE ON A PART-TIME BASIS**

When a student is deemed eligible for support on a designated course he is generally eligible for the duration of the course, subject to the rules on tuition fee and living costs support and regulations 3 and 5. The fact that the student attends part of the course on a part-time basis does not render the course itself part-time. As long as the course is full-time the student should remain eligible for full-time support. A possible scenario might be a student who is unable to continue to attend full-time due to pregnancy or because of some unforeseen circumstance such as ill health. The student might request to undertake a particular year of the course on a part-time basis over two years and their entitlement to fee support will be determined in accordance with Regulation 13(5).

Students who attend a full-time course on a part-time basis are subject to the following previous study provisions.

Examples:

A 'current system' student on a 3 year course having successfully completed year 1 of their course, is unable to attend their course full-time. It is agreed with their HE Provider that the student can complete year 2 of their course over the next two years. The second half of year 2 which is being completed in 2016/17 is treated as a standard academic year. Fee support is allocated from the standard entitlement first to year 3, then the

second half of year 2. Fee support can only be allocated to the first half of year 2 if the conditions in regulations 19(11) are satisfied. The additional year of support is allocated to the first half of year 2 which is being completed in 2016/17 and is treated, under regulation 13(5) as a year of repeat study for reasons other than CPR.

### **STUDENTS REPEATING WHOLE OR PART YEARS OF A FULL-TIME COURSE ON A PART-TIME BASIS - LIVING COSTS AND FEE SUPPORT**

The examples below assume that the first day of the academic year is 1<sup>st</sup> September and should be adapted accordingly for students whose academic year starts at a different time.

#### Example - current system student

Student failed the first year of his full-time course and is repeating term 2 of first year for the first time. Therefore the student only attends term 2 of the repeated year and is absent for terms 1 and 3. Living costs support is automatically payable for term 2. There is no automatic entitlement to living costs support for terms 1 & 3 although SFE may exercise its discretion in the student's favour, where it considers it appropriate to do so (Regulation 116(12)). The amount of tuition fee support to be taken into account in the financial assessment is the amount actually charged by the institution up to the maximum full-time fee rate of £9,000 for a 2012 or 2016 cohort student, or £3,465 (£3,925 where the HEP is in Northern Ireland) for a current system student who is **not** 2012 or 2016 cohort.

### **TRANSFERRING STUDENTS**

#### **CRITERIA FOR ASSESSING ELIGIBILITY**

Regulation 7 sets out the circumstances in which students may have their status as an eligible student transferred to another course. SFE is required to transfer the student's status where:

- they receive a request from the eligible student to do so
- they are satisfied that one or more of the grounds for transfer in regulation 7(2) applies and
- the period of eligibility has not terminated

The grounds for transfer are:

- on the recommendation of the academic authority the eligible student ceases one course and starts to:
  - attend another designated course at the same institution;
  - undertake another compressed degree course in the UK at the institution or
  - undertake a compressed degree course in the UK at the institution;
- the eligible student starts to -
  - attend a designated course at another institution; or
  - undertake a compressed degree course in the UK with another institution;

- after commencing a course for the Certificate of Education the eligible student is, on or before completing that course, admitted to a designated course leading to a BEd (including a course leading to the BEd (honours)), whether or not the course is at the same institution
- having commenced a course leading to a non-honours BEd, the eligible student is admitted to a designated honours BEd course, whether or not the course is at the same institution
- having commenced a course for a first degree (other than an honours degree) the eligible student is, before the completion of that course, admitted to a designated course leading to an honours degree in the same subject(s) at the same institution

Receiving institutions should notify course details to SFE so that SFE can check, and if necessary reassess, support. The notification will be taken as the receiving institution's consent to the transfer.

### **TRANSFERRING STUDENTS – 'CURRENT SYSTEM' STUDENTS**

Where a student transfers courses, the basic principle still applies, i.e. course length plus an additional year but less any years spent on previous courses (regulation 21). It is the length of the course that the student is transferring to which should be taken into account when determining the student's standard entitlement to fee support in respect of the second course.

Regulation 7(4) provides the Secretary of State discretion to reassess the amount of fee and, where applicable, living costs support available for a second course after a student transfers from one designated (full-time) course to another. Regulation 2(1) defines 'support' as 'financial support by way of grant or loan made by the Secretary of State pursuant to Regulations made by the Secretary of State under section 22 of the 1998 Act'.

Examples:

Student F started a four year degree course in 2014 (course A). Having completed the second year of the four year course she transfers into year one of a five year degree course (course B). Both of the years spent on course A count as years spent on a previous course. Student F applies for support for the 2016/17 academic year. Her standard entitlement is four years (i.e. five years plus one year minus two years on a previous course). The standard entitlement is exhausted before fee support is allocated to the first year of course B. She will need to self-fund her first year of course B but should then receive support to complete the remainder of the course.

Student G started a 3 year degree course in September 2015 (course A). The standard entitlement is three years support plus an additional year. Having passed the first year he decides to transfer onto a 4 year course in September 2016 (course B). The year spent on course A counts as a year spent on a previous course. The standard entitlement for course B is 4 years – i.e. 4 years plus an additional year less the year spent on course A. Assuming there is no repeat study, there is sufficient standard entitlement to complete the course with fee support allocated to each year.

Student H enrolled on a 4 year course in September 2014 (course A). Standard entitlement is 4 years support plus an additional year. Having completed 2 years of course A, the student transfers in September 2016 to the 2nd year of a 3 year course (course B). Both years on course A count as years spent on a previous course. Student H's standard entitlement for course B is ordinary course length (course B) plus an additional year less the 2 years spent on course A (i.e.  $3+1-2 = 2$ ). The standard entitlement therefore is 2 years support which, assuming no repeat study, is sufficient to complete the course.

See [Annex 8](#) for general principles determining standard entitlement and the allocation of tuition fee support

## ELIGIBILITY FOR SUPPORT FOR LIVING COSTS

### GENERAL

Support for living costs covers both loans and supplementary grants for living costs. Details of the general additional eligibility criteria for these are set out below.

### STUDENTS AGED 60 AND OVER

#### Pre 2016 cohort students (students who started a course before 1<sup>st</sup> August 2016):

In order to qualify for a loan for living costs, eligible students will need to be (or have been) below the age of 60 on the relevant date. "Relevant date" is defined under regulation 68. In most cases it will be the first day of the first academic year of the current course. Please refer to the 'Assessing Financial Entitlement' Guidance Chapter for further details.

The age criterion does not apply to fee loans, dependants' grants, travel grants and DSA.

#### 2016 cohort students:

Eligible students aged 60 and over on the first day of the first academic year of the course who start a full-time undergraduate HE course in AY 2016/17 will be assessed for the '2016 cohort' package of maintenance support .

A fully means tested maintenance loan for living costs of up to £3,469 will be available to these students rather than the Special Support Grant that was payable under the '2012 cohort' package, making these students eligible for maintenance loan for the first time;

No household contribution is calculated on or applied to maintenance loan payable to those aged 60 and over.

### OTHER ELIGIBILITY REQUIREMENTS

The following current system students will not be entitled to grants for living and other costs (regulation 38):

- EU students who fall within Paragraph 9 of Part 2 of Schedule 1 to the Regulations and in no other paragraph of Part 2 will not be eligible for *any support* towards living costs (regulations 38(2), 69(3) and 70(4))
- students who are eligible to apply for an income assessed "healthcare bursary" regardless of whether they receive any payment of the healthcare bursary (see definition of "healthcare bursary" in Regulation 2 and paragraph 11/Annex 1 of this Chapter)or
- students who are studying an AHP (Allied Health Professional) course are eligible to apply for payment of their tuition fees and either an income assessed Scottish Young or Independent Student Bursary from SAAS (as defined in regulation 2)
- students on part-time courses of initial teacher training (ITT) of any length, where the course begins on or after 1<sup>st</sup> September 2010 (these students should apply for the part-time support package – see the 'Supportfor Part-time Students' guidance)
- students on sandwich years where the periods of full-time study are in aggregate less than 10 weeks, and the periods of work experience are **not**:

- Unpaid service in a hospital or in a public health service laboratory or with a Clinical Commissioning group in the UK;
- Unpaid service with a local authority in the UK acting in the exercise of its functions relating to the care of children and young persons, health or welfare or with a voluntary organisation providing facilities or carrying out activities of a like nature in the UK or a Local Authority acting in the exercise of public health functions;
- Unpaid service in the prison or probation and aftercare service in the UK;
- Unpaid research in an institution in the UK or, in the case of a student attending an overseas institution as part of his course, in an overseas institution. Note - from 2014/15 Students undertaking unpaid placement years in Parliament as part of a higher education sandwich course have, for student support purposes, been treated as if they are undertaking unpaid research at an institution in the UK.; or
- Unpaid service with a Special Health Authority, the National Health Service Commissioning Board, the National Institute for Health and Care Excellence, the Health and Social Care Information Centre, Local Health Board, Health Board, Special Health Board or Health and Social Services Board in England or Wales, or their Scottish or Northern Irish equivalents.

These groups of students will, however, be eligible for modified amounts of loans for living costs (with the exception of part-time ITT students whose course begins on or after 1 September 2010). Detailed guidance on these matters is provided in the 'Assessing Financial Entitlement' chapter.

## DESIGNATED COURSES

Only designated courses will attract support. Regulations 5 (full-time including full-time distance learning courses that begin on or after 1 September 2012), 139 (part-time), 122 (full-time distance learning courses that began before 1<sup>st</sup> September 2012) and Schedule 2 of the Regulations set out provisions in relation to the designation of courses for tuition fee support, living cost support and supplementary grants. Regulation 161 sets out provisions in relation to the designation of Postgraduate Courses for Postgraduate Disabled Students' Allowances only.

## GENERAL CRITERIA FOR AUTOMATIC DESIGNATION OF COURSES

A course will automatically be designated under regulation 5 if it is:

- of a type which is listed in Schedule 2 of the Regulations (this list is set under the paragraph below)
- one of the following:
  - a full-time course (including full-time distance learning courses that begin on or after 1<sup>st</sup> September 2012);
  - a sandwich course;
- not a designated distance learning course which started before 1<sup>st</sup> September 2012
- of at least one academic year's duration

- wholly provided by an authority-funded<sup>1</sup> institution, provided by a publicly funded institution situated in the United Kingdom on behalf of an authority-funded institution; or provided by an authority funded institution in conjunction with an institution which is situated outside the United Kingdom, and at least half of the course is provided in the United Kingdom

For courses beginning on or after 1<sup>st</sup> September 2012 which fall within paragraph 1, 2, 4, 6, 7 or 8 of Schedule 2 the course should lead to a qualification which is granted by a body which is recognised to award UK degrees i.e. a Recognised Body or by a body that is permitted to act on behalf of the recognised body in the granting of degrees (i.e. a Listed Body). In addition the teaching and supervision must be formally approved or validated by the degree awarding body in line with the UK Quality Code of Higher Education published by the Quality Assurance Agency:

<http://www.qaa.ac.uk/assuringstandardsandquality/quality-code/Pages/default.aspx>

From the Academic Year 15/16 combined study courses between UK and Abroad can only be designated for student support where more than 50% of the teaching and learning that comprise the course takes place at a UK institution.

Therefore 4 year courses with a work placement and only one year of study in UK where the study abroad is 50% would not meet the required criteria for designation to qualify for student support.

Courses where exactly half is studied in the UK, would attract 2 years' of abroad rate fees. Where 10 weeks or more is studied at UK HEP the full fee can be applied.

Regulation 23(7B) restricts fee loans for an academic year to 15% of the maximum £9,000 (i.e. £1,350) where the periods of full-time study which are not undertaken at the UK University exceed 30 weeks for the current academic year and any preceding academic year. For English HEPs there is a corresponding fee cap of £1,350. Where the study at the UK institution exceeds 10 weeks in each year of the course, at some stage the 30 week rule will prevent the HEP charging the maximum £9,000 for the academic year.

As long as each year of the course satisfies the guidance criteria for a full-time course, a student would be entitled to apply for travel grant for each year of the course. In order to qualify for travel grant student would need to study abroad minimum of 50 % of any qualifying quarter.

“Quarter” in relation to an academic year means a period in that year—

- beginning on 1st January and ending on 31st March;

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<sup>1</sup> authority-funded” means—

- in relation to educational institutions in England, maintained or assisted by recurrent grants from the Higher Education Funding Council for England;
- in relation to educational institutions in Wales, maintained or assisted by recurrent grants from the Higher Education Funding Council for Wales;
- in relation to educational institutions in Scotland, maintained or assisted by recurrent grants from the Scottish Funding Council; and
- in relation to educational institutions in Northern Ireland, maintained or assisted by recurrent grants from the Department for Employment and Learning in Northern Ireland or the Department for Agriculture and Rural Development in Northern Ireland.”;

- beginning on 1st April and ending on 30th June;
- beginning on 1st July and ending on 31st August; or
- beginning on 1st September and ending on 31st December;

For courses that were designated prior to the 15/16 AY regulatory changes students can continue to be eligible while remaining on that course. They are classed as belonging to a previous cohort. A course is not automatically designated where part or the entire course is provided by a private institution. Such courses may however be specifically designated.

### Part-time

A course will be automatically designated for part-time support under regulation 139 if it is:

- mentioned in Schedule 2 (other than part-time courses of ITT which began before 1<sup>st</sup> September 2010 and are designated for full-time student support under regulation 5); and
- of at least one academic year's duration and
- for courses which began before 1<sup>st</sup> September 2012 does not exceed twice the period normally required to complete a full-time course leading to the same qualification; or
- for courses which begin on or after 1<sup>st</sup> September 2012 does not exceed four times the period normally required to complete a full-time course leading to the same qualification, and
- wholly provided by an authority-funded institution; provided by a publicly funded institution situated in the United Kingdom on behalf of an authority-funded institution; or provided by an authority funded institution in conjunction with an institution which is situated outside the United Kingdom, and at least half of the course is provided in the United Kingdom

For courses beginning on or after 1<sup>st</sup> September 2012 which fall within paragraph 1, 2, 4, 6, 7 or 8 of Schedule 2 the course should lead to a qualification which is granted by a body which is recognised to award UK degrees i.e. a Recognised Body or by a body that is permitted to act on behalf of the recognised body in the granting of degrees (i.e. a Listed Body). In addition the teaching and supervision must be formally approved or validated by the degree awarding body in line with the UK Quality Code of Higher Education published by the QAA: <http://www.qaa.ac.uk/assuringstandardsandquality/quality-code/Pages/default.aspx>

A course is not automatically designated where part or all of the course is provided by a private institution. Such courses may however be specifically designated.

Further explanations of the criteria for full and part-time designation are provided below. Please also refer to regulation 5, regulation 139 and separate guidance on part-time courses.

### **DISTANCE LEARNING**

Full time distance learning courses that started before 1<sup>st</sup> September 2012 are not automatically designated for student support. However under regulation 118 the Secretary of State has the discretion to specifically designate these courses. Further information is provided in paragraphs below.

## POSTGRADUATE DISABLED STUDENTS' ALLOWANCE

A postgraduate course (designated under regulation 161) will be automatically designated for Postgraduate Disabled Students' Allowance only if it is:

- a course for which entry requirements are normally a first degree (or equivalent qualification) or higher
- at least one academic year's duration and in the case of a part-time course, should not exceed
  - twice the period normally required to complete a full-time course leading to the same qualification, where the student starts the course before 1 September 2012; or
  - four times the period normally required to complete a full-time course leading to the same qualification, where the student starts the course on or after 1 September 2012
- wholly provided by an authority-funded institution; provided by a publicly funded institution situated in the United Kingdom on behalf of an authority-funded institution; or provided by an authority funded institution in conjunction with an institution which is situated outside the United Kingdom, and at least half of the course is provided in the United Kingdom'

A course is not automatically designated where part or the entire course is provided by a private institution. Such courses may however be specifically designated.

## SCHEDULE 2 COURSES

The following types of course are designated automatically providing they meet the other criteria in regulations 5 and 139. (See below for further information on these courses):-

- a first degree course
- a course for the Diploma of Higher Education (DipHE)
- a course for the Higher National Diploma (HND) or Higher National Certificate (HNC) of;
  - The Business and Technician Education Council; or
  - The Scottish Qualifications Authority
- a course for the Certificate of Higher Education
- a course of initial training for teachers
- a course in preparation for a professional examination of a standard higher than that of:
  - the examination at advanced level for the General Certificate of Education or the examination at the higher level for the Scottish Certificate of Education; or
  - The examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3
  - not being a course for entry to which a first degree (or equivalent qualification) is normally required

- a course:
  - providing education (whether or not in preparation for an examination) the standard of which is higher than that of courses providing education in preparation for any of the examinations mentioned in Paragraph 7(a) or (b) above but not higher than that of a first degree course; and
  - for entry to which a first degree (or equivalent qualification) is not normally required (e.g. an NVQ level 4 where this is awarded along with a first degree, Dip HE or HND)

## INTERPRETATION OF PROVISIONS ON AUTOMATICALLY DESIGNATED COURSES

The Department does not normally maintain any lists of courses which are automatically designated under regulations 5 (full-time) and 139 (part-time). All of these courses should appear on the Course Management System (course database). The courses on this system should meet the designation criteria, however it will be for SFE to decide which of them are eligible for support. SFE may decide to contact the student or HEP directly if the information is required to establish whether a course is eligible for designation (for example, the entry qualification required, and the qualification it leads to).

## FURTHER INFORMATION ON COURSES IN SCHEDULE 2

### First Degree Courses – (Schedule 2, Paragraph 1)

For the purposes of student support a first degree includes honours degrees and ordinary degrees (e.g. BA, BSc, LLB etc), first degrees in Medicine, Dentistry and Veterinary Science (e.g. MBChB or BM BS, BDS, BVetMed and BVSc), integrated Masters degrees (e.g. Meng, Mchem, Mphys, Mpharm) and Foundation Degrees.

A first degree course that began on or after 1 September 2009 is not a designated course where it leads to the award of a professional qualification and where a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification.

### First Degree Courses – Integrated Masters Degree

Integrated Masters are generally four year programmes of study in science, engineering and mathematics disciplines. They comprise an integrated programme of study including typically three years study at undergraduate level and one year postgraduate leading to a single integrated undergraduate qualification. Students enrol at the outset for the full course. For the purposes of student support ELQ policy, they are treated as equivalent to an honours degree for undergraduate student support purposes.

### First Degree Courses – Cambridge Tripos

Courses at Cambridge University are divided into parts, each lasting one or two years. In some subjects there are two parts – Part I and Part II, while in others, especially in science and engineering there is an optional Part III. Students enrol at the outset for the full course. If they have successfully passed each part, they continue onto Part III. This three part degree is known as a Cambridge Tripos. On successful completion of all three parts students may be awarded an undergraduate Masters award such as MEng or MSci. Cambridge students must state that it is their intention to take Part III of the Tripos before completion of the third year of the course.

As a whole, the four year course can attract student support. However, Part III is also offered as a separate one-year postgraduate course. Graduates of other universities who wish to take Part III of the Tripos at

Cambridge would not be enrolled on the four year course but on the separate one year course which, as a stand-alone postgraduate course, does not qualify for undergraduate student support.

### **First Degree Courses – Foundation Degrees**

Foundation degrees (Fds) are vocational higher education qualifications that feature work-based learning. Many Fds, particularly part-time ones, combine academic study with learning in the workplace. Fds were introduced to help address the skills gap at the associate professional and higher technician level. Fds are typically developed with substantial help from employers and other stakeholders such as professional bodies. Foundation degrees constitute 240 credits, and provide a defined progression route to some bachelor's degrees.

Many foundation degree courses are automatically designated for support, provided they meet all parts of regulation 5(1). However, HEIs have been encouraged to be flexible in their provision of foundation degrees, and consequently a number may be organised so that days of learning in the workplace and days of study are combined in the same week. We do not want students on these courses to be penalised relative to those doing a similar amount of study but via a more traditional route.

Foundation degree courses are usually 2 years in duration though some may take longer to complete. They may be full-time courses or sandwich courses. Some may be part-time in that (a) they do not contain enough full-time study per year on average to meet the definition of a sandwich course, and (b) they meet the definition of a part-time course at regulation 139.

Some foundation degree courses feature learning in the workplace, which should be treated as full-time study in an institution for the purposes of the definition of a sandwich course and of determining levels of support.

### **Initial Teacher Training (ITT) Courses (Schedule 2 – Paragraph 5)**

For the purpose of student support there are two main types of ITT courses which can be designated – Schools ITT courses and ITT courses for those wishing to teach in the FE sector. These courses can be delivered under a range of different models and the designation and approval arrangements vary. Schools ITT courses can be delivered by authority-funded institutions, private institutions or by School Centred Initial Teacher Training providers; some of these may be delivered under the Schools Direct programme. ITT courses for the FE sector are delivered mainly by authority-funded institutions and in some cases by private institutions. Further details are provided below.

Initial teacher training courses taken as part of an employment based teacher training scheme are not designated courses.

#### **FULL-TIME ITT COURSES**

Full-time ITT courses that lead to a first degree are defined in the Regulations as per all full-time non-ITT courses that lead to a first degree.

Full-time ITT courses that do not lead to a first degree (i.e. all graduate courses leading to QTS) are courses of at least one academic year but no more than two academic years in length, where the periods of study in each academic year are at least 300 hours. A week of study can be considered as 30 hours.

#### **PART-TIME ITT COURSES**

ITT courses that are at least one academic year in length and do not meet the minimum hours criteria as set out above for full-time non-first degree courses are considered to be part-time ITT courses if they meet the

appropriate intensity of study conditions (i.e. for courses beginning before 1 September 2012 intensity of study is at least 50% of an equivalent full-time course over the duration of the part-time course, and for courses beginning on or after 1 September 2012 intensity of study is at least 25% of an equivalent full-time course over the duration of the part-time course and in each year). These courses attract the part-time support package only, regardless of whether or not the course leads to a first degree.

### STUDENT SUPPORT FOR ITT STUDENTS

All students commencing full-time undergraduate or postgraduate courses leading to QTS are eligible for maintenance support as per undergraduate full-time students.

All students commencing part-time undergraduate or postgraduate ITT courses will be eligible for the part-time support package as per undergraduate part-time students.

### SCHOOL CENTRED INITIAL TEACHER TRAINING (SCITT) SCHEME

Programmes offered by School Centred Initial Teacher Training (SCITT) providers are typically postgraduate ITT courses designed and delivered by schools or in a very small number of cases FE colleges which have been accredited by the National College of Teaching and Leadership (NCTL). The courses lead to Qualified Teacher Status (QTS) with many also awarding an academic award such as a PGCE that is validated by an HE Provider. There are partnerships of schools running SCITT courses all over England providing different kinds of teacher training covering primary, middle years and the full range of secondary subjects. SCITT courses generally last one year full time.

#### Schools Direct Training Programme

School direct places are available in certain primary and secondary schools across England and are delivered in partnership with an accredited ITT provider (either a SCITT or an HE Provider). These programmes generally last for one academic year, although where the programme is undertaken on a part-time basis it will usually take longer. Successful completion of the programme will lead to the award of qualified teacher status (QTS). School Direct programmes will often include an academic award such as a PGCE. There are two separate School Direct training options:

**Schools Direct Training Programme (unsalaried)** is for graduates who will be part of a school team from enrolment. These graduates may be eligible for a bursary of up to £25,000 to support them in training. The training bursary is paid by the National College of Teaching and Leadership. Where undertaken on a full-time basis – students on these courses can attract the full-time package of support. Where undertaken on a part-time basis, these students can attract the part-time tuition loan only.

Open University is also providing full-time courses in conjunction with the Schools Direct programme. Where the course is designated as full-time, students on these courses can also receive the full-time package of support including maintenance support.

**Schools Direct Training Programme (salaried)** is an employment-based route for graduates with at least three years' work experience. These graduates will earn a salary while they undertake this programme through Schools Direct. Where a student opts for the 'salaried' programme they are ineligible for support under the Student Support Regulations.

#### Schools ITT courses and the maximum tuition fee loan

Students studying on a postgraduate ITT course leading to the award of QTS are eligible for both maintenance support and tuition fee loans. The maximum tuition fee loans vary depending on the course and the provider.

Schools ITT providers (HE Providers or SCITTS) can be either public or private. The maximum tuition fee loan for publicly funded ITT providers is £9,000 and for private ITT providers it is £6,000.

Following changes to designation regulations only ITT courses delivered by authority-funded institutions are automatically designated. All Schools ITT courses delivered by non-authority-funded providers must be specifically designated and have their public/private status confirmed. This specific designation and status confirmation is done via the NCTL and the Department for Business, Innovation and Skills and is separate from the specific designation process run by HEFCE for other alternative providers.

The HEFCE Register of Providers includes details of all non-authority funded accredited ITT providers and SCITTS. The list can be found at:

<http://www.practitioners.sl.c.o.uk/policy-information/designated-courses/all-scitt-courses.aspx>

### **ITT courses for Teaching in the FE sector**

The Department for Education and Skills introduced legislation in 2007 to ensure all teachers in Further Education were suitably qualified and two new qualifications were introduced: Diploma in Teaching in the Lifelong Learning Sector (DTLLS) and Additional Diplomas in the Lifelong Learning Sector (ADTLLS).

Following recommendations made by Lord Lingfield in his independent review of FE professionalism in 2012 existing FE ITT qualifications are being replaced by a new suite of qualifications: Awards, Certificates and Diplomas in Education and Training. The new Diploma in Education and Training (DET) qualifications were introduced in September 2013.

As DTLLS/ADTLLS qualifications are being replaced they will no longer be treated as ITT courses for the purpose of student support. With effect from the 1 September 2014 DTLLS qualification courses are not eligible for HE student support funding. This applies to new students only; existing students who were in receipt of support in respect of a designated DTLLS course in 2013/14 will be able to continue to do so until they complete their course.

There are several types of ITT qualifications that have been introduced for people wishing to teach in the FE sector:

- Diploma in Education and Training – 120 credits
- Diploma in Education and Training integrated specialist diplomas – 120 credits (or in the case of the English: Literacy and ESOL Diploma 135 credits)
- Diploma in Education and Training with specialist pathways – 120 credits (or in the case of the English: Literacy and ESOL Diploma 135 credits) and;
- Standalone specialist Diplomas of 45 credits (see paragraph 195 below)

The DET mentioned above are level 5 qualifications and when delivered by a FE provider or an Alternative Provider the qualification will be one endorsed by an OFQUAL recognised Awarding Organisation eg City and Guilds, Pearson etc. HEPs eg Universities also offer their own FE Initial Teacher Training (ITT) qualification, at level 6 or 7, often called by a range of different names Post Graduate Certificate in Education (PGCE) Post Graduate Diploma in Education (PGDE), Post Graduate Diploma (PGD) etc. These courses will not lead to the award of QTS. However, they will have been designed (or redesigned) and validated to meet requirements of the DET. DfE are working with the Education and Training Foundation to remind all providers that courses should be 'DET compliant' in order to achieve funding.

**Which FE ITT courses can be designated for student support?**

- All DET courses that are mentioned above except the standalone Diplomas at 45 credits as they are not deemed to be ITT courses in their own right and they would not normally take a year to complete.
- All DET compliant FE ITT courses delivered by HEIs. These will often lead to the award of one of the following qualifications - PGDE, PGCE, PGDs . These courses will not lead to QTS.

Authority funded providers who are eligible to have courses automatically designated will need to add their new FE ITT courses to their existing list of courses on the SLC HE Provider course database;

Any non authority-funded institutions (some FECs and sixth form colleges) and alternative providers that plan to deliver the new DETs will have to apply for the course(s) to be specifically designated under the new specific designation arrangements administered by HEFCE (see below) if they wish student to access student support. This will be the case regardless of whether they had a DTLLS course specifically designated previously.

**ITT AND PRIVATE INSTITUTIONS**

If a student is undertaking an ITT course at a privately funded institution, then they will not be eligible to apply for funding, unless the course is specifically designated. The list of SCITTS and non-authority funded ITT providers and their public/private status can be found on the Student Finance England website at <http://www.practitioners.slc.co.uk/policy-information/designated-courses/all-scitts-courses>.

**COURSES FALLING UNDER PARAGRAPHS 6 & 7 OF SCHEDULE 2**

In order to ensure a consistent approach to the designation of courses across all types of institutions delivering higher education both in the public and private sector and to ensure that all qualifications supported under these paragraphs are subject to the same standards with regard to quality, a new condition has been introduced to course designation which applies to all courses starting on or after 1<sup>st</sup> September 2012. The condition requires that in order to be designated all courses falling under paragraphs 1, 2, 4, 6 and 7 should lead to qualifications awarded by a body with UK degree awarding powers. This has been further refined to require that the courses must be 'approved by' or validated by the UK degree awarding body in line with the UK Quality Code.

Paragraph 6 of Schedule 2 specifies courses leading to professional examinations, i.e. above A-level/Scottish Higher/NC/ND and not higher than first degree and for which a first degree or equivalent qualification is not normally required. These must now also lead to qualifications which are awarded by a body with UK degree awarding powers in order to attract student support.

In establishing whether a course is within either of Paragraphs 6 and 7 of Schedule 2, SFE will, as well as determining the level of the qualification which the course leads to, need to establish the normal entry requirement. Courses are only within these paragraphs if a first degree or equivalent qualification is not a *normal* entry requirement. It will not be sufficient to establish that entry may be obtained without a first degree; the issue is whether entry without a first degree or equivalent qualification is the normal route. In the case of many courses leading to postgraduate qualifications, the likelihood is that they will not meet this criterion, as the normal entry route will be via a first degree or equivalent.

The provision under Paragraph 7 of Schedule 2 is a very general one. It has the effect of designating any course which meets the other requirements of regulation 5 and:

- Which is at a standard higher than GCE A levels, Scottish Highers, the National Certificate and National Diploma; but

- Which is at a standard not higher than a first degree course; and
- For which a first degree or equivalent qualification is not normally required.

The SFE will therefore find in many cases that they can establish whether a course falls under Paragraph 7 of Schedule 2 without having to establish whether it falls under either of Paragraphs 3 or 4.

## **SPECIAL CASES**

### **ACCESS COURSES**

Access courses are separate and distinct courses which prepare students for entry to courses in HE. They are courses of further education and assume successful completion before progression to HE takes place. They are not therefore likely to be capable of designation for student support purposes in their own right because they do not lead directly to one of the qualifications shown in Schedule 2. At the same time they are unlikely to meet the criteria for foundation years (see below) as part of a designated extended degree course and so will not attract support on that basis either.

### **TWIN-TRACK ACCESS COURSES**

Some access courses have been introduced which also allow students to treat attendance on them as part of a later degree course for credit transfer purposes. In the Department's view, such courses should be regarded as access courses for the purposes of the Regulations. A twin-track course should be treated as part of a designated course only if it meets the criteria set out for foundation years (see below).

### **COMPRESSED DEGREE COURSES (REGULATION 2(2))**

These courses are full-time undergraduate honours degree courses delivered over two long academic years (24 months) by higher education institutions. Compressed degree courses differ from two year accelerated courses (also defined in regulation 2) as compressed degree courses may include an element of distance learning. For the purposes of student support, students on compressed degree courses are considered to be in attendance whilst undertaking the distance learning.

A number of compressed degree courses were introduced from 2006 through a pilot scheme supported by HEFCE as Flexible Learning Pathfinders. These are specifically designated for the purpose of student support and an up to date list of compressed degree courses supported by the pilot can be found on the specific designation website at:

[http://practitioners.studentfinanceengland.co.uk/portal/page?\\_pageid=133,4210374&\\_dad=portal&\\_schema=PORTAL](http://practitioners.studentfinanceengland.co.uk/portal/page?_pageid=133,4210374&_dad=portal&_schema=PORTAL)

Regulation 2(2) defines a “compressed degree course” as a course meeting certain specific criteria that has been determined to be a compressed degree course by the Secretary of State.

Regulation 2(1) defines a “compressed degree student”. SFE will wish to note the criteria that a student must satisfy in order to be treated as a compressed degree student for the purposes of the Regulations. In particular, SFE should note that, unless he is a disabled student who cannot attend the course for a reason connected to his disability, a student can only be treated as a compressed degree student for the 2016/17 academic year if he is required to be in attendance on the course for part of that year.

Other compressed degree courses which are not part of the HEFCE pilot may be specifically designated for support by the Secretary of State provided they meet the criteria set out in regulation 2(2). These courses will be listed on the SFE specific designation website.

## FOUNDATION YEARS AS PART OF AN EXTENDED COURSE

Some courses are extended beyond their normal length to include a foundation year designed to prepare for study in their chosen subject those entrants whose qualifications or experience, while acceptable for entry to higher education, are not entirely appropriate for normal entry to their particular course. The whole of this type of extended course is designated for support provided that:

- the foundation year is an integral part of the course and that the course as a whole is designated by or under the Regulations; and
- students enrol at the outset for the full duration of the extended course.

Foundation years are not the same as [foundation degrees](#) and the two should not be confused.

## FREE STANDING FOUNDATION AND CONVERSION COURSES

Free-standing foundation or conversion courses are not normally designated in their own right if they are not an integral part of a designated course. The following additional tests may help SFE to determine whether or not a foundation year is an integral part of a designated course. In the Department's view, it may be regarded as such a part, provided that:

- where the foundation year is undertaken at another institution, students are enrolled with the parent institution providing the designated course and for the full duration of the extended course;
- the foundation year does not normally lead to any separate award or qualification in its own right; and
- the whole course provides for students to proceed automatically on successful completion of the foundation year to the next year of the course.

## IRISH COLLEGES

Higher Education colleges and universities in the Republic of Ireland, such as Trinity College Dublin, are not in the United Kingdom and are therefore classed as overseas institutions for students resident in England.

Courses at Republic of Ireland institutions are therefore not designated for support under the Regulations and English domiciled students undertaking courses at these institutions are not eligible for student support from the English Government.

Assessors should note that courses at institutions in the Republic of Ireland do appear on the HE Provider database but are only designated for students domiciled in Northern Ireland or Scotland. This is because students from Scotland and Northern Ireland are eligible for student loans for study in the Republic of Ireland and in order to allow payments to these students to be authorised the courses need to be listed on the database.

SFE, should not provide advice on the support available to English students intending to study at Irish Colleges but may refer them to the Higher Education Authority (HEA) in Dublin who should be able to advise on possible sources of financial assistance.

HEA can be contacted at the following address:-

Higher Education Authority  
Brooklawn House,  
Crampton Ave,  
Ballsbridge,  
Dublin 4,  
Ireland

Telephone: 00 [353 1 231 7100](tel:35312317100)

Fax: 00 353 1 231 7172

[Email:info@hea.ie](mailto:info@hea.ie)

### **MIXED MODE COURSES**

Mixed mode courses are not supported, e.g. a 3 year course with years 1 & 2 part-time and the final year full-time.

### **PART-TIME COURSES**

Please refer to the separate guidance on part-time courses.

### **DEFINITION OF FULL-TIME COURSE (REGULATION 5(1)(B)(I))**

Although 'full-time' is not defined in the Regulations, the following guidance may be used to decide whether a course is full-time. 'Full-time' courses normally require that students attend the institution or elsewhere for periods amounting to at least 24 weeks within the year and, during that time, they are normally expected to undertake periods of study, tuition, learning in the workplace, or sandwich work-placement that does not meet the criteria to be sandwich year out, which amount to an average of at least 21 hours per week.

For courses of two years or more, full-time students are normally required to attend the institution, or elsewhere, for periods of a minimum of eight weeks in the final year. Full-time ITT courses that do not lead to a first degree (PGCE and equivalent courses) are courses of at least one academic year but no more than two academic years in length, where the periods of study in each academic year are at least 300 hours. A week of study can be considered as 30 hours.

SFE will need to satisfy themselves that the student's course is either full-time (see above), a sandwich course (see below) or a full-time course of ITT (see regulation 5(1)(b)(iii)), before determining whether the student is eligible for support.

Study at premises outside the institution (for example at another institution) should be taken into account in determining whether it is a full-time course. Such study outside the institution need not necessarily be at another HE Provider or, indeed, at an institution in the United Kingdom. Therefore, a student who is required to attend the institution providing the course for 16 weeks in the academic year, and to attend another institution for a further eight weeks, would be considered to have been required by the institution to attend the course for 24 weeks.

When determining whether the course is full-time, the number of weeks that a student undertakes a course for are those which the student would normally be required to undertake, rather than those which he actually undertakes.

Additionally, such courses at HEFCE funded institutions which meet the criteria set out above would be subject to the tuition fee cap and should have an OFFA (Office for Fair Access) agreement if charging above the basic amount.

## LEARNING IN THE WORKPLACE

For the purposes of determining whether a course is a full-time course, the period for which the student is required to undertake the course can include *learning in the workplace*, where that learning forms a compulsory part of the course. Such learning is frequently a feature of foundation degree courses, but it may also occur in other courses e.g veterinary degrees.

Learning in the workplace is a structured academic programme, controlled by HE Providers, and delivered in the workplace by academic staff of the institution, or staff of the employer, or both.

Unlike *work experience*, which is one element of a course, learning in the workplace is at the heart of an individual's learning programme and must be subject to the same level of academic supervision and rigour as any other form of assessed learning. It includes:

- the imparting of relevant knowledge and skills to students
- opportunities for students to discuss knowledge and skills with their tutors
- assessment of students' acquisition of knowledge and skills by the institution's academic staff, and perhaps jointly with an employer

Learning in the workplace should, in the Department's view, be a substitute for learning that would normally take place within an institution.

The actual machinery (whether lectures, tutorials, examinations or other means) is not crucial in identifying learning in the workplace, so long as knowledge and skills can be shown to be effectively imparted and assessed.

## SANDWICH COURSES (REGULATION 5(1)(B)(II))

Regulation 2(10) defines a sandwich course. A course is a sandwich course if it is not a course for the initial training of teachers, it consists of alternate periods of full-time study in an institution and periods of work experience; and taking the course as a whole, the student attends the periods of full-time study for an average of not less than 18 weeks in each year.

Regulation 2(10)(b) provides that, for the purposes of calculating the student's attendance, the course shall be treated as beginning with the first period of full-time study and ending with the last such period.

Regulation 2(10)(c) provides that where periods of full-time study and work experience alternate within any week of the course, the days of full-time study shall be aggregated with each other and with any weeks of full-time study in determining the number of weeks of full-time study in each year.

Only *full* days of full-time study (not part days) should be counted. Also, when counting days of study to make up a number of weeks of study, the divisor should be 5 rather than 7 – see the following example.

As an example, a course that required 3 days' full-time study and 2 days' work experience per week, over a 30-week academic year, would give an aggregate of 18 weeks' study (3 days x 30 weeks = 90 days, which, divided by 5, gives 18 weeks). If that were the pattern in each academic year of the course, so that the average of (not

less than) 18 weeks' full-time study in a year was maintained throughout, this course would attract support as a sandwich course.

Conversely, a course would not attract support as a sandwich course if it required 2 days' study and 3 days' work experience per week over 30 weeks, in each academic year of the course, because the number of days of full-time study would add up to less than 18 weeks in each year (and thus less than 18 weeks a year on average). It could however attract part-time support if it met the definition of a part-time course in Regulation 139.

Another possible example is of a 2 year sandwich course that required:

Year 1 - 4 days' study and 1 day's work experience each week for 30 weeks.

Year 2 - 2 days' study and 3 days' work experience each week for 30 weeks.

There would be an aggregate of 24 weeks study in Year 1 and 12 weeks study in Year 2, averaging 18 weeks a year. The course would attract support.

Where students will be undertaking weeks which alternate periods of full-time study in an institution and periods of work experience, the term dates from the HE Provider course database provided by the SLC will not provide sufficient information for SFE to determine the appropriate level of support (including extra weeks of support where appropriate). SFE will need to refer to the information provided by students in their applications; and they may also need to contact HEIs to ascertain attendance patterns.

Provisions relating to the support available for current system students on sandwich placements are in the appropriate parts of regulations 23(2)& (3) (Amount of the fee loan), regulation 38(5)(General qualifying conditions for grants for living and other costs), and regulation 80(1)(b) (maximum amounts of loans for living costs).

Further guidance on support available for sandwich placements is in the 'Assessing Financial Entitlement' chapter of this guidance, which explains how the principle of aggregating days of study applies also to determining levels of support.

The intention of the definitions of full-time and sandwich courses is to distinguish those courses which consist entirely of full-time study from courses which involve work experience. Courses involving periods of study and of work experience, even if the work experience placements are very short and amount to only weeks or parts of weeks (as they often do in the case of full-time HNC courses), should be treated as sandwich courses, and whether they are designated for student support will depend, among other things, on whether they meet the definition at Regulation 2(10).

SFE will need to be observant of the difference between a sandwich course with periods of work experience and a part-time course. Regulation 2(10) specifies that the periods of experience must form part of the course and that they must be associated with full-time study at an institution.

'Periods of work experience' are defined in regulation 2(1) and may include periods during which modern language students spend living and working in a country whose language they are studying on their course.

## **INTERCALATED STUDY**

Certain courses which are not higher than first degree level and which lead to more than one qualification, either as an optional or integral part of the course, will be considered to be single courses (regulations 5(8) and (9)). These are:

- Medical, dental and veterinary science courses which include an intercalated first degree such as a BSc;
- Courses in architecture, landscape architecture, landscape design, landscape management, town planning and town and country planning where qualifications are awarded both at an intermediate point in the course and at the end. However, SFE should note that where the second part of a course leads to a postgraduate degree, that part should not attract support;
- Courses in architecture which are prescribed by the Architects Registration Board and which cover Part 1 and Part 2 but not Part 3. Part 2 of the course (years 4-5 of study) will attract support even if the student is additionally awarded a postgraduate degree (such as MArch) as long as the content of the course is undergraduate level and undergraduate level fees are charged. However, SFE should note that Part 2 should only be funded when taken by a student who has already taken Part 1 (or is exempted from Part 1).

Note that there is no support provided during a year that a master's degree level course is intercalated into an undergraduate degree (although the student may be eligible for Postgraduate Loan). Tuition fee support, maintenance grant/SSG (pre 2016 cohorts only) and maintenance loan are unavailable post intercalation of master's as the student now holds an ELQ, except where the course leads to a qualification as a social worker, medical doctor, dentist, veterinary surgeon or architect in which case maintenance loan is available.

#### **ARCHITECTURE COURSES (REGULATION 5(8) & (9))**

The Department's understanding is that in order to potentially qualify to register as an architect a student must complete five years' study - years 1 to 3 being Part 1 (leading to a first degree) and years 4 and 5 being Part 2 (leading to a professional Diploma or equivalent qualification). Students are also required to complete two years worth of relevant practical experience. Students following the typical pattern of study normally complete one year of practical experience between Parts 1 and 2 and a further year at the end of Part 2.

Regulations 5(8) and 5(9) allow the two parts of the architecture course, which may be undertaken at different institutions, to be treated as one single course for student support purposes. The Department is of the view that this position is unaffected by a student undertaking a year's practical experience between the two parts. The final year of Part 1 will therefore attract the full-year loan rate, rather than the final year loan rate. The Department is also of the view that the two Parts can still be treated as a single course even if a student takes a break of more than one year between them provided it is clear that the student had not withdrawn from the overall course at the end of Part 1. So, for example, if a student completes Part 1 and a year of practical experience and then decides to take a year out before starting Part 2, he can still be treated as attending the same single course provided the facts of his case do not show that he withdrew from the course at the end of Part 1. The Regulations do not require a student to declare, before starting or completing Part 1, his intention to attend both Parts 1 and 2 in order for the two Parts to be treated as a single course. However, establishing the student's intentions at the outset of or during Part 1 may assist the SFE in determining how to treat a student who does not follow the typical pattern of study.

The Department is of the view that a student who takes more than a single year out between Parts 1 and 2, and notifies SFE of this and his intention to resume his studies at a later date, should be treated in the same way as any other student who has temporarily suspended his studies. For example, if after completing his year of practical experience a student decides to take a year out, then provided that he has notified his SFE that he is doing so, he should normally remain eligible for full support for Part 2 of the course. This would apply equally if a suspension of study notice was received from the student's HE Provider.

If a student does not follow the typical study pattern and SFE has not received a notification from the student or the relevant HE Provider, the Department is of the view that SFE should only treat that student as having temporarily suspended his studies if it is clear on the particular facts of the case that the student had not withdrawn from the course at the end of Part 1. The Department is of the view that where a period of three years has elapsed since the student completed Part 1 (in other words two years after one would expect the period of practical experience to have been completed), it may be reasonable to determine that the student has withdrawn from the single course. Therefore where the student has a gap longer than three academic years between Parts 1 and 2 the single course provision would usually not apply. However, SFE will need to satisfy itself, on a case by case basis, that such a decision would be appropriate.

The previous study rules should apply in the case of any student who is treated as having withdrawn from the original single course. Consequently, such a student would not be eligible for tuition fee support for a Part 2 course.

If a student applies to SFE for support in respect of Part 2 of the architecture course where this is not being undertaken in conjunction with a Part 1 course, and thus cannot be treated as part of a single course, the student is not likely to be eligible for fee support or maintenance support for the Part 2 course. The reason for this is that the student will probably already hold a first degree or equivalent qualification and as a result they would be ruled out of any further fee support, and consequently maintenance grant or special support grant (for pre-2016 cohorts), by regulation 19(1)(a).

Students who are on courses covered by regulation 5(8) that meet the definition of a sandwich course in regulation 2(10) are potentially eligible for support during their year of practical experience. They may only be eligible for a reduced amount of fee support if their periods of full-time study are below certain levels (regulation 23(7)(b)). Any student whose periods of full-time study in the relevant academic year are in aggregate are less than 10 weeks and whose periods of work experience do not constitute periods of unpaid service will qualify only for the reduced loan for living costs under regulation 80(1)(b) in that year (because regulation 38(6) will apply). This is of course subject to the student satisfying the other eligibility criteria for the loan.

In cases where a student takes a free-standing Part 1 course followed by a year of practical experience, then subsequently takes a free-standing Part 2 course, it is the Department's view that he or she cannot be said to be on a sandwich course as defined in regulation 2(10). Consequently, such a student will not be eligible for support during the year of practical experience.

#### **SPECIFIC DESIGNATION (REGULATIONS 5(10), 122, 139(7), 161(4))**

The Secretary of State has the power to designate courses which are not automatically designated under the Regulations: regulation 5(10) for full-time courses (including full-time distance learning courses starting on or after 1<sup>st</sup> September 2012, regulation 122 for full-time distance learning courses which start before 1 September 2012, regulation 139(7) for part-time courses and regulation 161(4) for postgraduate courses. The Department considers applications for designation for courses of HE at publicly-funded institutions, private institutions and NHS colleges. These can be for full-time or sandwich courses, part-time courses, as well as Postgraduate courses for the purpose of awarding DSAs and Postgraduate Loan (see the "Postgraduate Loan" guidance for further details).

From AY 13/14 a new specific designation has been introduced which is administered by HEFCE. An application pack and further information on the process and timescales involved can be downloaded from the HEFCE website:

<http://www.hefce.ac.uk/whatwedo/reg/desig/>

The HEFCE website also includes links to the latest DfE guidance on the new process. The arrangements apply to all new specific course designation applications for 2013/14 onwards.

The HEFCE Register of Providers includes details of all providers with specifically designated courses and details of their designated courses. The list can be found at:

<http://www.hefce.ac.uk/whatwedo/reg/register/>

## FRANCHISING ARRANGEMENTS

Many institutions of higher education have entered or are considering franchising arrangements for their courses with other institutions of higher and of further education (including private institutions). Franchising arrangements take a number of forms. For example, the parent institution may determine to a varying degree the course content, may provide some or all of the course materials and may provide some or all of the lecturers. The parent institution may also enrol the students itself and receive grant from its Funding Council in respect of them, and be responsible to its Funding Council for the quality of the teaching on the course.

Where a whole course is franchised, it should be regarded for the purposes of the Regulations as being provided by the franchisee, as long as the franchisee is providing the training and supervision. A course is provided by the institution which provides the teaching and supervision of the course (regulation 5(7)(a)). If the franchisee is a publicly funded institution, and the course is one which is capable of designation under regulation 5, it will be automatically designated. However, if it is a private institution, specific designation for it will have to be sought from the Department. (More details on the maximum fee loans available to private institutions with franchise arrangements in place are provided in the “Assessing Financial Entitlement” guidance chapter.)

Courses which have been partly franchised should be regarded as courses which are being jointly provided by both institutions. Courses which are jointly provided by two authority-funded institutions or by an authority-funded institution and a publicly-funded institution satisfy regulation 5(1)(e). Courses which are jointly provided by an authority-funded institution and a private institution may be specifically designated by the Secretary of State.

The Secretary of State provided blanket specific designations for all franchised courses in the 2015/16 academic year. However, it is important to note that specific course designation is awarded at the discretion of the Secretary of State. Designation is not awarded in perpetuity and courses must satisfy the conditions of a franchised course as set out in the Department’s specific designation guidance in order to be covered by this blanket designation. The guidance is available on the GOV.uk website.

## DISTANCE LEARNING

Distance learning, sometimes called flexible or open learning, is a programme of study that allows students to study at home. Distance learning programmes have become increasingly popular over the last few years, as the Internet has developed into a reliable channel of tuition.

Most colleges and universities offer some distance learning programmes now, from language courses to full undergraduate degrees, postgraduate programmes and MBAs. Some even offer courses or programmes entirely over the Internet, often called e-courses or online courses. They provide a mode of delivery for students who do not attend traditional on-campus courses, although there may be some short periods of attendance.

For the purposes of this guidance, we are only concerned with undergraduate study.

Distance learning courses can be classed as full-time or part-time. All full-time distance learning courses at both public and private institutions that started prior to 1 September 2012 must be specifically designated by the Secretary of State in order to be a designated distance learning course. Full-time distance learning courses at authority-funded institutions that begin on or after 1 September 2012 are automatically designated; Part-time distance learning courses at authority-funded institutions can be automatically designated provided they meet the other criteria for part-time courses in regulation 139. Distance learning courses provided by private institutions and other non-authority funded institutions can be specifically designated.

A distance learning course may be deemed full-time by the HE Provider because of the number of hours of study but only courses which meet all of the criteria below would in our view be a full-time course for the purposes of regulation 5(1) of the Regulations.

Students are normally required to undertake the course for a period of a minimum of 24 weeks in each academic year, and for courses of two years or more, for a minimum of 8 weeks in the final year.

A whole year full-time fee should be chargeable by the institution for the current year of the programme of study (exceptions to this will be made for students who are repeating part of a year).

Full-time means that students are required to undertake their course on most days of the week and for most weeks of the year.

Additionally, courses at HEFCE funded institutions that meet the criteria set out above would be subject to the tuition fee cap and should have an OFFA agreement if charging above the basic amount.

For student support purposes, SFE do not include overseas Embassies, Military Bases or overseas Missions as UK territory and Regulation 144 confirms that all distance learning students must be undertaking the course in England in order to receive student support.

Regulation 144 (3) states that An eligible part-time student qualifies for a fee loan under paragraph (1) if the Secretary of State considers that—

- the student is attending the course in the United Kingdom, or
- where the course is a part-time distance learning course, the student is undertaking the course in England on the first day of the first academic year

#### **DISTANCE LEARNING COURSES AND STUDENT SUPPORT - NEW STUDENTS STARTING COURSES ON OR AFTER 1<sup>ST</sup> SEPTEMBER 2012**

Full-time distance learners who start a full-time distance learning course on or after 1<sup>st</sup> September 2012 are potentially eligible for tuition fee loans at rates equivalent to full-time students who are in attendance on their course, and are also potentially eligible for full-time rates of DSAs. These students are not eligible for any maintenance support (including targeted grants) as they are not in attendance.

The exception to this rule is disabled students who are undertaking either (i) a full-time course that normally requires attendance by distance learning or (ii) a full-time distance learning course, because they are unable to attend a course for a reason which relates to their disability. Such students are treated as if they were in attendance and are eligible to apply for full-time maintenance support (including targeted grants). Disabled students who are undertaking full-time distance learning courses but are not treated as being in attendance on their course by virtue of this exception are potentially eligible for DSAs only at the full-time rate.

#### **Distance Learning Course and Student Support - students starting courses before 1<sup>st</sup> September 2012**

Full-time distance learning courses that started before 1 September 2012 should be specifically designated by the Secretary of State under regulation 122 as designated distance learning courses. Details of these courses are on the Student Finance England website, and they include courses offered by publicly funded institutions.

Full-time distance learners who started a designated distance learning course before 1<sup>st</sup> September 2012 and who are not covered by the disability exception are potentially eligible for full-time rates of DSAs only, and in addition are also potentially eligible for a package of support equivalent to the fee and course grant available to part-time students who study at a level of 75% or more of the full-time equivalent (FTE). These students will receive funding under Part 10 provided that they meet the eligibility and qualifying criteria. This group of students will include disabled students who are not prevented from attending a course as a result of their disability and who are electing to study on a distance learning basis.

HEPs and students should note that if a course is a full-time distance learning course and is not specifically designated, students undertaking that course will not be able to qualify for support under Part 10 of the Regulations.

The package of support offered to eligible distance learning students (who started their courses before 1 September 2012) in connection with their undertaking designated distance learning courses is similar to that offered to eligible part-time students. SFE, HEPs and students should be aware of the following key differences:

Regulation 120 sets out the criteria that a student must satisfy in order to be an “eligible distance learning student”. This criteria is not identical to those found in regulation 137 (eligible part-time students). The criteria in regulation 120 take into account that DSA will be payable to distance learning students (other than those who are treated as in attendance) under Part 10 of the Regulations and not Part 4 of the Regulations;

The support payable to eligible distance learning students is set out in regulations 124 (covering fee grant and course grant) and 127 (covering disabled distance learning students’ allowances).

The maximum amount of fee grant payable to eligible distance learning students will be £1,285, which is the maximum payable to part-time students, and the maximum amount of course grant will be £280. SFE does not need to calculate a student’s intensity of study to determine the maximum fee grant payable to a particular student. In all cases, this will be the lesser of; (a) the fees actually payable by the student; and (b) £1,285. The means test that applies to the fee and course grants is, however, identical to the part-time means test.

Eligible full-time distance learning students who started their course before 1<sup>st</sup> September 2012 who are currently eligible for DSAs and are not treated as in attendance for the purposes of the Regulations will be paid DSA under regulation 127. DSAs are payable under regulation 127 at the full-time rates provided for in regulation 41 to reflect the position prior to 1<sup>st</sup> September 2007. Regulation 131 makes provision for the transfer of status of these students from eligible student to eligible distance learning student.

Provision is also made for the transfer of status of students who were previously deemed to be eligible students but who did not qualify for support solely because they were not in attendance on a designated course (regulation 131).

## **ANNEX 1**

This Annex describes the various elements of student support which are available for students who are undertaking Health related courses that attract NHS (DOH) funding.

### **NHS BURSARY HOLDERS**

NHS Bursaries are available to students on full or part-time courses leading to professional registration in:

- Chiropody;
- Dental hygiene;
- Dental therapy;

- Dietetics and nutrition
- Nursing (including courses to convert from second to first level registration);
- Midwifery;
- Occupational therapy;
- Operating department practice (Dip HE only);
- Orthoptics;
- Physiotherapy;
- Podiatry;
- Prosthetics and orthotics;
- Radiography;
- Radiotherapy;
- Speech and language therapy.

Please note that Optometry is not a course which attracts any NHS support; this course attracts standard SFE funding, providing the student meets the general eligibility criteria.

You can check [www.nhsbsa.nhs.uk/students](http://www.nhsbsa.nhs.uk/students) website for further details and up to date eligible subjects list. These can be located under student bursaries section from the NHS bursary scheme link.

Students who are eligible to apply for income assessed NHS bursaries or income assessed Healthcare awards from the Department of Health (DH) are not eligible to apply to SFE for support for tuition, (regulation 19 (2)) or any grants (regulation 38(4)(a)). However, such students are eligible to apply to SFE for the reduced rate non-means tested maintenance loan (regulation 68(e)(i)). The reduced rates of maintenance loan for AY 2016/17 can be found at Annex A.

From 2012, all new entrants to NHS funded courses receive the income assessed NHS Bursary and will also receive a non-means tested grant of £1,000 from the NHSBSA. This means that students can apply for the reduced rate maintenance loan.

NHS funded students on diploma level courses in nursing, midwifery or operating department practice who started their course prior to AY 2011/12 will receive support for fees and maintenance via a non-income assessed NHS Bursary. Students who receive a non-income assessed NHS Bursary are not eligible to apply for any support provided under the Student Support Regulations (regulation 4(3)(c)) as they do not meet the definition of an eligible student. As diploma level courses are being phased out, most nursing students will be studying on degree level subjects.

#### **STUDENTS STUDYING HEALTH CARE COURSES AT SCOTTISH HE PROVIDERS**

Students studying Nursing and Midwifery courses at Scottish HEPs are eligible to apply for a non-income assessed bursary from SAAS, therefore they are ineligible for funding from SFE. This includes degree and diploma courses.

Students domiciled in England studying for Allied Health Professional courses (with the exception of nursing and midwifery) will have their fees paid in full by SAAS and can access via SAAS a means tested young students or independent students bursary and other grants. Such students can apply to SFE for a reduced level maintenance loan only.

#### **STUDENTS STUDYING HEALTH CARE COURSES AT NORTHERN IRISH HEPS**

Students studying Nursing and Midwifery courses at Northern Irish HEIs (Queens University and University of Ulster) are eligible to apply for a non-income assessed bursary from DHSSPS NI, therefore they are ineligible for funding from SFE.

## **SOCIAL WORK COURSES**

Social work courses do not attract an NHS Bursary. The Social Work bursary, although administered by the NHS Business Service Authority, are not taken into account when assessing social work students and they are eligible to apply for full support.

Students studying joint Honours courses in nursing and social work are eligible for an income assessed NHS bursary, therefore they should receive reduced rate maintenance loan only from SFE.

## **MEDICAL AND DENTAL UNDERGRADUATE COURSES**

Students on standard 5 or 6 year undergraduate medical and dental courses are eligible under the Regulations to apply for support on the same terms as other full-time students for the first four years of their course (subject to previous study). For the fifth and subsequent years of their course they apply to the NHS for tuition support and an income assessed NHS Bursary, and to SFE for the reduced rate non means tested maintenance loan.

Postgraduate qualifications can be studied during intercalation; these courses are not eligible for undergraduate support but may be eligible for Postgraduate Loan – see the “Postgraduate Loan” guidance for further details. If a qualification is gained during the intercalated year the student will be entitled to maintenance loan and supplementary grants only until the NHS Bursary year and then a reduced level maintenance loan only for the remainder of their medical or dental course. This is due to the student holding a qualification higher than the degree they are still studying for, but as they are studying on a subject treated exceptionally under the Regulations the remainder of the degree course can still attract some support.

Where a graduate is undertaking an undergraduate 5 or 6 year medical or dental course as a second degree regulation 69 provides that as an exception course the student can receive maintenance loan and supplementary grants from SFE (note that grants for dependants, travel grants and DSAs are not subject to previous study or ELQ regulations).

Please note that medicine and dentistry courses may be listed as level 7, postgraduate level on the QAA framework; however, the QAA Framework does not form part of the Student Support Regulations. Under the Regulations, qualifications no higher than a first degree as set out in Schedule 2 are funded. As such qualifications are first degrees, student support is provided exceptionally under ELQ rules. Therefore, students who already hold an Honours degree or an equivalent qualification and are studying these courses as a second undergraduate degree qualify for the maintenance loan and supplementary grants but not for tuition loan or (for pre 2016 cohort students) or maintenance grant / special support grant.

## **ACCELERATED GRADUATE ENTRY MEDICAL OR DENTAL PROGRAMMES**

### **Courses starting before 1<sup>st</sup> September 2012**

Students undertaking a graduate entry accelerated programme (a course leading to qualification as a medical doctor or dentist which normally requires a first degree (or equivalent) as an entrance qualification and does not take longer than 4 years to complete) are provided for by the Regulations. Subject to meeting the usual eligibility conditions and income assessment, they are entitled to the means tested maintenance loan for living costs and supplementary grants (Grants for Dependants, Travel Grant and DSAs) during year 1. Students on these courses are not eligible to apply for tuition support (see regulation 13(1)) or (for pre 2016 cohort

students) Maintenance Grant (regulation 56(3)) or Special Support Grant (regulation 61(3)) because they hold an Honours Degree or an equivalent level qualification. These students receive no tuition support in the first year of this programme and have to self fund the first year's tuition.

In years 2 to 4 of the accelerated programme the courses attract an NHS bursary and students apply to the NHSBSA to have their tuition and maintenance paid via the income assessed NHS bursary. As they are in a bursary year, students can apply to SFE for the reduced rate non-means tested maintenance loan only.

### **Accelerated Courses starting on or after 1<sup>st</sup> September 2012**

Where the accelerated graduate entry medical or dental course starts on or after 1<sup>st</sup> September 2012, the Regulations provide that eligible students can apply for a tuition loan of up to £5,535 in all years of the course including the first year, (regulation 23(8)). Graduate entry medical and dental students are however still required to self fund the first £3,465 of the tuition charged in their 1<sup>st</sup> year. In years 2 to 4 of the course, the first £3,465 is paid as part of the income assessed NHS Bursary.

In year 1, students can apply for a means tested maintenance loan and supplementary grants and from year 2 to 4 of the course, as these students can apply for NHS bursaries, they become eligible for the reduced rate maintenance loan.

### **ELQ EXCEPTION COURSES**

The Student Support Regulations provide for certain courses to be treated exceptionally where a student already holds an Honours degree or equivalent. These include courses in medicine, dentistry, social work, (regulation 69) and courses which attract an income assessed NHS Bursary or Healthcare award from the DH (regulation 68(e)(i)).

This provides that students who already hold a qualification and are not in an NHS bursary year can apply for a maintenance loan as well as supplementary grants. During a NHS Bursary year students can apply for a non-means tested reduced level maintenance loan if the bursary is means tested.

Those studying social work may qualify for an means tested maintenance loan and supplementary grants.

### **PARAMEDIC COURSES**

Students on some Paramedic courses may be eligible to receive funding through the Local Education and Training Boards (LETBS, which is the former Strategic Health Authority) or Local Ambulance Service Trusts. Students who receive funding from these sources are deemed to be in receipt of a healthcare award which falls within the definition of a healthcare bursary (regulation 2 (1)). Whether students are eligible to apply for support from SFE depends on whether the funding they receive from the DH is income assessed or non-income assessed.

- Where the student is awarded non-income assessed funding for the paramedic course from their Local Education Training Board or health authority (see comment above re SHA) or Ambulance Service Trust, the student is ineligible to apply for support under the Student Support Regulations (regulation 4(3)(c))
- where the student is awarded income assessed funding for the paramedic course via their LETBS or Ambulance Service Trust the student is ineligible to apply for support under the Student Support Regulations, the student is entitled to a reduced rate non-means tested Maintenance Loan only from SFE.

In some circumstances the LETB or Ambulance Service Trust may still pay the student's tuition fee. In these cases the tuition fee should be set to zero by SFE, and the student can apply for the full package of living cost support.

Where the student is not eligible to apply for any funding from the LETBS or Ambulance Service Trust they are eligible to apply for full support under the Student Support Regulations.

Because of the varying types of support packages in place for Paramedic courses, to determine what funding is being received by the student SFE will write to the student at application and request a letter from the HEI/LETBS or Ambulance Service Trust confirming:

- whether they receive any funding from the LETBS or Ambulance Service Trust
- whether the LETBS or Ambulance Service Trust pay the student's Tuition Fee
- whether the funding awarded is income assessed or non-income assessed

## **NHS SECONDEES**

The Department of Health has confirmed that health care students who are employed by NHS trusts and seconded onto health care courses are not eligible for NHS bursaries. These students continue to receive their salary and have their tuition paid by the NHS. The payment of their fees is outside of the NHS bursary scheme or Section 63 of the Health Services and Public Health Act 1968. Students who receive assistance from the NHS only for their fees, are not excluded from the student support provisions and can therefore receive grants and loans for living costs on the same basis as other students, subject to their satisfying all the usual eligibility criteria.

Seconded NHS employees will have their fees paid by the NHS. In order to prevent double funding of fee support, applications should be processed in the usual way by SFE and then when approving the application SFE should manually over-ride the tuition fee amounts and set them to zero. Setting the 'public contribution to fees' box to zero will ensure the HE Provider is not paid a fees contribution by SFE. Setting the 'student contribution to fees' box to zero will ensure the HE Provider does not invoice the student for a contribution to fees.

## **EXCEPTIONS TO THE STANDARD NHS FUNDING PACKAGES**

### **Post Graduate Nursing Courses**

It has recently been identified that certain Postgraduate Diploma in Nursing Courses attract the income assessed NHS Bursary. However as these are Postgraduate courses they are higher than a first degree as set out in Schedule 2, and do not qualify as a 'designated course' under the Student Support Regulations, students on these courses are not eligible for funding from SFE.

### **NHS/LETB/Department of Health Funding not available**

Not all healthcare courses attract NHS funding. In these circumstances, because the student is not eligible to apply for any NHS, LETB or DH support, the student is deemed eligible to apply for support under the Student Support Regulations. SFE will write to the student to request evidence of this in the form of a letter from the HE Provider. The letter should state that student is not able to apply as course is not eligible for any NHS Support. This scenario differs from students whose household income is too high to receive any NHS income assessed living cost support but will usually have their fees paid in full. In cases where household income is too

high, the underlying eligibility to the bursary remains and students should be assessed for the reduced rate Maintenance Loan.

## ADMINISTRATION

The information required for assessing applications from students who are eligible to apply to the DH or NHS for support is captured by the questions set out in the application and most of that information will be relevant to the student's eligibility.

SFE will need to know the course subject and qualification, to determine whether it is a pre-registration course, whether it leads to a diploma in nursing, midwifery or operating department practice, and whether it is a medical or dental course.

In the case of a medical or dental course the length and year of the course is required to determine whether it is a 'bursary year', in addition to whether the student already holds a honours degree, and if the programme of study is an accelerated graduate entry medical or dental course or they are on the 5 year undergraduate programme.

SFE may ask the student for supplementary information about the bursary or healthcare award (such as a letter from the appropriate NHS grants unit) before determining their eligibility for the reduced rate loan. Such students will be subject to the same eligibility criteria for loans as other students. They will therefore need to be under the age of 60 on the relevant date (see regulations 69(1) and 70(1)).

It will not be necessary to go through the financial assessment process where the student is eligible only for the reduced rate of loan, unless the student specifically asks for their household income to be taken into consideration. This would normally only apply for the purposes of any income assessed HE Provider Bursaries. Where an applicant has indicated that they are eligible to apply for an income assessed NHS Bursary or healthcare award, the system will calculate their entitlement to maintenance loan at the reduced rate.

Responsibility for handling student applications for NHS bursaries is dependent on where the student studies, i.e. Scotland, Wales or Northern Island, but the student should apply to SFE for a loan if they are ordinarily resident in England. For example, a student ordinarily resident in England who is studying at an institution in Wales would apply to Wales for an NHS bursary and to SFE for a loan. Further information on NHS eligibility rules can be found on the NHS website at: <http://www.nhsbsa.nhs.uk/students>.

Please see [Annex C](#) for a list of the Department of Health funding bodies in each domicile.

## EXAMPLES

**Student A** commenced an undergraduate Dentistry course in September 2015. Student A has no previous study. Student A is eligible to apply for the following package of support -

**Years 1 – 4** – Tuition Loan, Maintenance Loan, Maintenance Grant (or SSG) and Targeted Grants.

**Years 5 and 6** – Income assessed NHS Bursary, reduced rate non-means tested maintenance loan.

**Student B** commenced an undergraduate Medical course in September 2015. Student B already has an Honours degree. Student B is eligible to apply for the following package of support –

**Years 1 – 4 – Income Assessed** Maintenance Loan and Targeted Grants.

**Years 5 and 6 of the medical course** – Income assessed NHS Bursary, reduced rate non-means tested maintenance loan.

**Student C** commenced a graduate entry accelerated 4 year Medical or Dental Course in September 2011. Student C following package of support is available to Student C–

**Year 1** – No tuition support (student will self fund £3,465), Maintenance Loan and Targeted Grants.

**Years 2 – 4** – Income Assessed NHS Bursary includes funding of tuition and therefore a reduced rate non-means tested Maintenance Loan only applies.

**Student D** commences a graduate entry accelerated 4 year Medical or Dental Course in September 2016. Student D is eligible to apply for the following package of support –

**Year 1** – Partial Tuition Fee Loan of up to £5,535 (student will self fund first £3,465), means tested Maintenance Loan and Targeted Grants.

**Years 2 – 4** – Partial Tuition Fee loan of up to £5,535 (DH will fund first £3,465) and income assessed NHS Bursary. Student can apply for reduced rate non-means tested maintenance loan only from SFE.

**Student E** commences a full-time 3 year Nursing degree and can apply for the means tested NHS Bursary.

**Year 1-3** - Means tested NHS Bursary including full fee paid and £1,000 grant. Student can apply for reduced rate maintenance loan only from SFE.

**Student F** – has an honours degree and enters a Physiotherapy course.

**Years 1-3** – The student can apply for the means tested NHS Bursary, and reduced rate maintenance loan only from SFE.

#### REDUCED RATE MAINTENANCE LOAN TABLE

Reduced rate Maintenance Loan	Living with parents	Living away from parents outside London	Living away from parents in London	Studying Overseas
Full year rate – all cohorts	£1,744	£2,324	£3,263	£2,324
Final year rate – all cohorts	£1,324	£1,811	£2,498	£1811

#### Funding bodies providing NHS bursaries to students in the United Kingdom:

##### England

NHS Student Bursaries  
Ridgway House  
Northgate Close  
Middlebrook

Horwich  
Bolton  
BL6 6PQ

Tel: 0300 330 1345

email: [nhsbsa.sbaccount@nhs.net](mailto:nhsbsa.sbaccount@nhs.net)

### **Wales**

#### **NHS Wales - Student Awards Services**

6th Floor  
Churchill House  
17 Churchill Way  
Cardiff  
CF10 2TW  
Telephone: 029 2037 6854  
Website: [www.wales.nhs.uk](http://www.wales.nhs.uk)

### **Northern Ireland**

Department of Employment and Learning (DEL)  
Student Support Branch  
4<sup>th</sup> Floor, Room 407  
Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

Tel: 028 9025 7777  
[www.delni.gov.uk](http://www.delni.gov.uk)

### **Scotland**

Student Awards Agency for Scotland  
Saughton House  
Broomhouse Drive  
Edinburgh  
EH11 3UT

Tel: 0300 555 0505  
[www.saas.gov.uk](http://www.saas.gov.uk)

Please call either the NHS BSA on 0300 330 1345 or 0191 279 0570 or visit the following website, [www.nhsbsa.nhs.uk/students](http://www.nhsbsa.nhs.uk/students), to find the full and comprehensive list of courses that attract NHS funding in England.

## **ANNEX 2**

### **MEMBER STATES OF THE EU AND THEIR DATES OF ACCESSION**

**The member states of the EU and their dates of accession are:**

Belgium 1.1.58  
France 1.1.58  
Italy 1.1.58  
Luxembourg 1.1.58  
Netherlands 1.1.58  
West Germany 1.1.58  
Denmark 1.1.73  
Ireland 1.1.73  
United Kingdom 1.1.73  
Greece 1.1.81  
Portugal 1.1.86  
Spain 1.1.86  
Austria 1.1.95  
Finland 1.1.95  
Sweden 1.1.95

**With effect from 1 May 2004 the following countries joined the EU:**

Cyprus  
Czech Republic  
Estonia  
Hungary  
Latvia  
Lithuania  
Malta  
Poland  
Slovakia

Slovenia

**With effect from 1 January 2007 the following countries joined the EU:**

Bulgaria  
Romania

**With effect from 1 July 2013 the following country joined the EU:**

Croatia

**Cyprus** – The Sovereign bases on Cyprus are not part of the EU.

**Denmark:** On 1 February 1985, Greenland, part of the Kingdom of Denmark, ceased to be part of the EU. The Faroe Islands are not part of the EU.

**Germany:** From 3 October 1990, the former German Democratic Republic became part of the Federal Republic of Germany. The enlarged Germany remains a member state and all nationals have full EU rights. Heligoland, although a tax-free port, is part of the EU.

**Finland:** The Åland Islands are part of the EU.

**France:** The French Overseas Departments (DOMs) (Guadeloupe, Martinique, French Guyana, Réunion) are part of Metropolitan France and the Treaties apply. But French Overseas Territories (French Polynesia, etc.) (TOMs) are not part of the EC.

**Netherlands:** The Netherlands Antilles and Aruba are not part of the EU.

**UK:** The Channel Islands and Isle of Man are not part of the EU (although many EU provisions relating to trade are applied there). Gibraltar on the other hand is part of the territory of the EU and the EEA (even though exempt from many EU rules). Depending on their circumstances, Gibraltarians may be eligible for a fees-only award or maintenance support as well. The Sovereign Bases on Cyprus, the Falklands and other UK Dependent Territories are not part of the EU.

**Spain:** The Balearic Islands and the Canaries are part of the EU as are Ceuta and Melilla.

**Portugal:** Madeira and the Azores are part of the EU (under special terms). Macao is not.

**Andorra, Monaco, San Marino and The Vatican City** are not part of EU.

**Member states of the EEA as from 1 July 2013:**

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Ireland, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Liechtenstein, Malta, Netherlands, Norway, Poland, Croatia, Romania, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

**Switzerland:** Although Switzerland is not a member of the EEA, Swiss migrant workers and their spouses/civil partners and children are treated on the same basis as EEA migrant workers for student support purposes. This is consequential to the Agreement between the EU and Switzerland on the Free Movement of Persons, which was signed on 21 June 1999 and came into force on 1 June 2002.

The amendments required to implement the agreement were first set out in the Education (Student Fees and Support) (Switzerland) Regulations 2003 (SI 2003/3280) which came into force on 8<sup>th</sup> January 2004 and were incorporated in the Education (Student Support) Regulations 2006.

**Turkey:** Although Turkey is not a member of the EEA, children of Turkish migrant workers are treated on the same bases as EEA nationals for student support purposes. This is consequential to the European Court of Justice Ruling.

**Gibraltar:** Gibraltar is part of the territory of the EEA.

**Dependent territories:** Svalbard is a dependent territory of an EEA member state (Norway).

### ANNEX 3

#### EXTRACT FROM LORD SCARMAN'S JUDGEMENT

The following are extracts from the judgement given in the House of Lords on 16 December 1982, as reported in [1983] 2 WLR 16. *At page 31 H:*

“It is my view that LAs, when considering an application for a mandatory award, must ask themselves the question:- has the applicant shown that he has habitually and normally resided in the United Kingdom from choice and for a settled purpose throughout the prescribed period, apart from temporary or occasional absences? If an LA asks this, the correct, question, it is then for it, and it alone, to determine whether as a matter of fact the applicant has shown such residence. An authority is not required to determine his ‘real home’, whatever that means: or need any attempt be made to discover what his long-term future intention or expectations are.

The relevant period is not the future but one which has largely (or wholly) elapsed, namely that between the date of the commencement of his proposed course and the date of his arrival in the United Kingdom. The terms of an immigrant student's leave to enter and remain here may or may not throw light on the question: it will, however, be of little weight when put into the balance against the fact of continued residence over the prescribed period - unless the residence is in itself a breach of the terms of his leave, in which event his residence, being unlawful, could not be ordinary.”

At page 27 B-G:

“There are two and no more than two, respects in which the mind of the ‘propositus’ (the student applicant) is important in determining ordinary residence. The residence must be voluntarily adopted. Enforced presence by reason of kidnapping or imprisonment, or a Robinson Crusoe existence on a desert island with no opportunity of escape, may be so overwhelming a factor as to negative the will to be where one is. And there must be a degree of settled purpose. The purpose may be one; or there may be several. It may be specific or general. All the law requires is that there is a settled purpose. This is not to say that the ‘propositus’ intends to stay where he is indefinitely; indeed his purpose, while settled, may be for a limited period. Education,

business or profession, employment, health, family, or merely love of the place spring to mind as common reasons for a choice of regular abode. And there may well be many others. All that is necessary is that the purpose of living where one does has a sufficient degree of continuity to be properly described as settled.

The legal advantage of adopting the natural and ordinary meaning, as accepted by the House of Lords in 1982 and recognised by Lord Denning in this case, is that it results in the proof of ordinary residence, which is ultimately a question of fact, depending more upon the evidence of matters susceptible of objective proof than upon evidence as to the state of mind. Templeman L J emphasised in the Court of Appeal the need for a simple test for LAs to apply: and I agree with him. The ordinary and natural meaning of the words supplies one. For if there is to be proved a regular, habitual mode of life in a particular place, the continuity of which has persisted despite temporary absences, ordinary residence is established provided only if it is adopted voluntarily and for a settled purpose.

An attempt has been made in this case to suggest that education cannot be a settled purpose. I have no doubt it can be. A man's settled purpose will be different at different ages. Education in adolescence or early adulthood can be as settled a purpose as a profession or business in later years. There will seldom be any difficulty in determining whether residence is voluntary or for a settled purpose: nor will enquiry into such questions call for any deep examination of the mind of the 'propositus'."

**ANNEX 4**  
**REGULAR MILITARY AND AIR FORCES AND ROYAL NAVY FORCES**

CERTIFICATE OF TEMPORARY EMPLOYMENT OUTSIDE THE UNITED KINGDOM

ELIGIBILITY FOR STUDENT SUPPORT

I \_\_\_\_\_ certify \_\_\_\_\_ that:

Number.....Surname.....Initials.....

Rank \_\_\_\_\_

Unit.....

has been in continuous service as a member of the regular military or air forces or of the Royal Navy forces since:

(date).....

and that he\*/she\* is the spouse/civil partner\*/ parent\*/ guardian\*/ has parental responsibility for \*/ has care of\* (\*delete as applicable)

Surname.....Initials.....Date of Birth.....

Signed.....

Name.....

Rank.....

Unit Records Officer

Date.....

Telephone Number.....

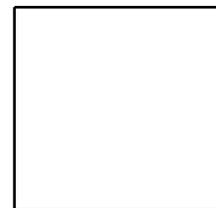
UnitAddress

.....

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Unit Stamp

[Note: this certificate should be used to support a claim for exemption from the UK ordinary residence requirements.]

**ANNEX 5**

**HOME OFFICE IMMIGRATION PASSPORT STAMPS**

As new stamps may be introduced or amended after the issue of this guidance, please refer to the Home Office’s Immigration and Nationality Directorate’s website:

<http://www.ind.homeoffice.gov.uk>

**ANNEX 6**

**ORGANISATION CONTACT DETAILS**

**Welsh Government**

Cardiff Bay

Cardiff

CF99 1NA Tel: English: 0300 0603300, Welsh: 0300 0604400 [www.wales.gov.uk](http://www.wales.gov.uk)

**The Student Awards Agency for Scotland (SAAS)**

Saughton House

Broomhouse Drive

Edinburgh  
EH11 3UT

Tel: 0300 5550505

[www.student-support-saas.gov.uk](http://www.student-support-saas.gov.uk)

**Department for Education and Learning (Northern Ireland)**

Higher Education, Policy, Research and Finance

Room 407

4<sup>th</sup> Floor

Adelaide House

39-49 Adelaide St

Belfast

BT2 8FD

Tel: 028 9025 7777

[www.delni.gov.uk](http://www.delni.gov.uk)

Student Loans Company

European Team

Memphis Building

Lingfield Point

McMullen Road

Darlington

County Durham

Tel: 0141 243 3570

<http://www.direct.gov.uk/en/EducationAndLearning/UniversityAndHigherEducation/StudentFinance/StudentsFromOtherEUCountries/index.htm>

**Student Loans Company**

Memphis Building

Lingfield Point

McMullen Road

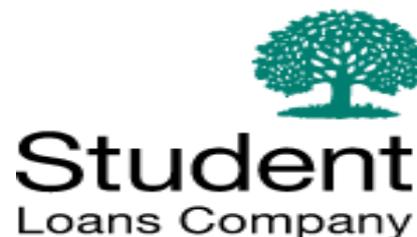
Darlington

County Durham

Student Support Information Line: 0300 100 0618

<http://www.direct.gov.uk/en/EducationAndLearning/UniversityAndHigherEducation/StudentFinance/index.htm>

**ANNEX 7**



## Student Finance Check Proforma

 <ul style="list-style-type: none"> <li>• Guidance</li> <li>• <b>Requestor</b></li> <li>• Subject</li> <li>• Check Sheet</li> </ul>	<b>Section A: REQUESTOR DETAILS</b>	
	Organisation / Requestor »	SLC   SLC
	Requesting Officer's Name »	
	Office Location »	
	Contact email »	
	Telephone Number »	
Requesting Officer's Reference »		
<b>Section B: ENQUIRY DETAILS</b>		
Enquiry Type »	Standard	
Court Date (if applicable) »		
Name of Court »		
Required by Date (if applicable) »		
Justification/Reason for the Enquiry Justification for required by date »		

Home Office

- Guidance
- Requestor
- Subject
- Check Sheet

### Section C: SUBJECT DETAILS

HO Reference »	
Surname »	
First Name(s) »	
Date of Birth »	
Gender »	
Nationality »	
Other Reference »	
Current Address »	
National Insurance Number (if known) »	

### Section D: INFORMATION REQUIRED

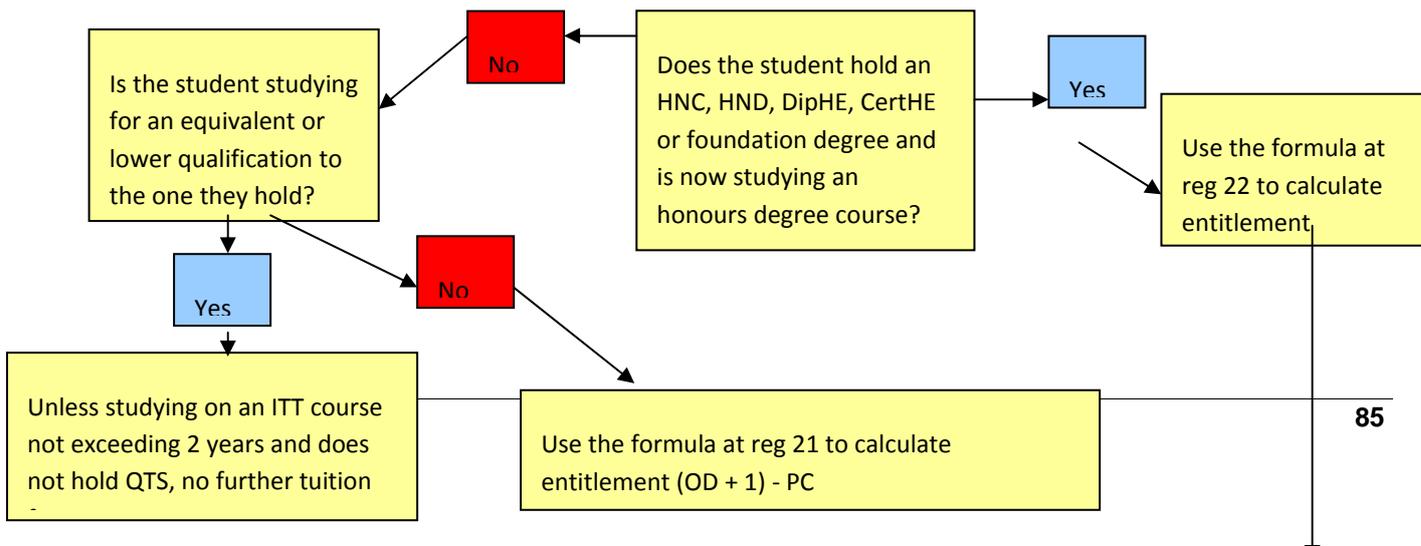
Address Check/Details »	Image Request »	
Confirmation of Documents Held »	Immigration History »	
Confirmation of Details Provided »	Previous Status »	
Confirmation of Correct EC »	Right to Work (RTW) »	
Confirmation of In/Out of Time Application »	Case Owner »	
Confirmation of Removal/Deportation »	Validation of Naturalisation Certificate »	
Copy of Documents »	View File »	
Current Status »	View File Action »	
Family Details/Links »		
ILR date/confirmation of details provided »	Other (specify below) »	

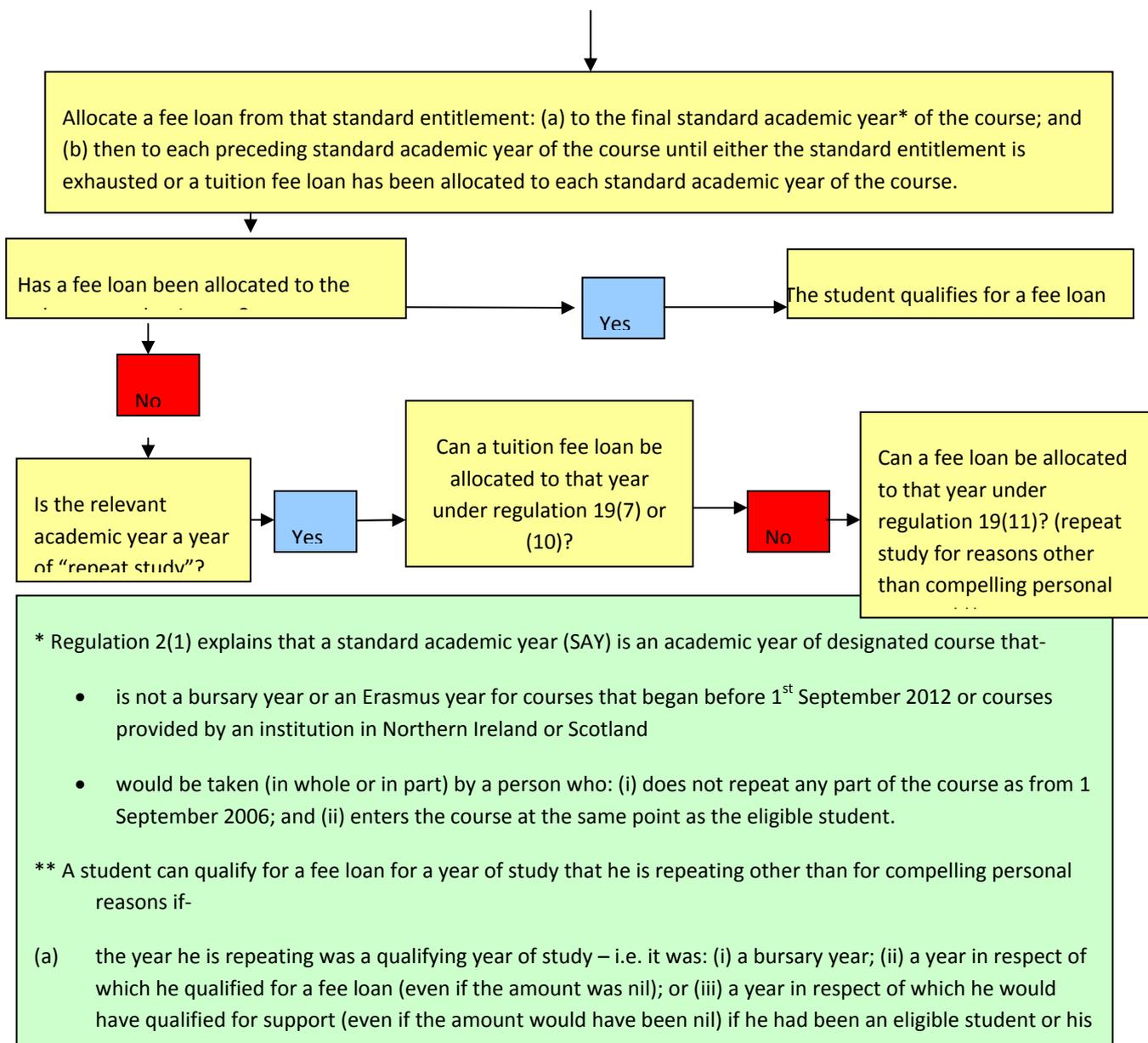
  

### Section E: OTHER DETAILS

## ANNEX 8

General principles for determining standard entitlement and the allocation of tuition fee support





## ANNEX 9

### Examples of where a student withdraws from a course, is awarded an exit qualification and then returns to study.

#### Examples where Regulation 21 is applied

Student A starts a 2 year Full-time HND in AY 11/12 and withdraws after year 1.

In AY 13/14 student A starts a Full-time 3 year honours degree and successfully completes year 1 however withdraws in year 2 (AY 14/15). Student A's HEP awards them a Cert HE for the course content which they successfully completed.

In AY 15/16 student A starts a full-time four year undergraduate degree starting from year 1.

As student A has undertaken a degree in part, before the current course, (*even though awarded an HNC*), regulation 22 does not apply and therefore student A's remaining entitlement to tuition loan is calculated in accordance with regulation 21.

$$(OD + 1) - PC$$

$$(4+1) - 3 = 2 \text{ years of tuition loan (and any MG/SSG entitlement) remaining}$$

As the remaining entitlement is applied to the final year of the course first and then every preceding year until it is exhausted Student A will have to self-fund their tuition costs in years 1 and 2 of the new course. As they do not qualify for a tuition fee loan in year one and two no maintenance grant is available in line with Regulation 56(3).

Student B starts and successfully achieves a Cert HE after one year of full-time study in AY 10/11. Student B then starts an Honours Degree in AY12/13 and their tuition loan entitlement is calculated in accordance with regulation 22(5). Student B successfully completes year one but withdraws in year 2 (AY 13/14) of the degree for compelling personal reasons. Student B's HEP awards them an HNC for the course content which they successfully completed.

In AY 15/16 Student B starts a two year Foundation degree starting from year 1.

As Student B has undertaken a degree in part, before the current course, (*even though awarded an HNC*), regulation 22 does not apply and therefore student B's remaining entitlement to tuition loan is calculated in accordance with regulation 21.

$$(OD + 1) - PC$$

$$(2 + 1) - 3 = 0 \text{ years of tuition loan (and any MG/SSG entitlement) remaining}$$

Student B is able to apply for a further year of tuition support as they can demonstrate that they left their previous course for compelling personal reasons. Student B is awarded a tuition loan in year one of their course but is required to self-fund their tuition costs in year two of their course. As they do not qualify for a tuition fee loan in year two no maintenance grant is available in line with regulation 56(3).

### Examples where regulation 22 is applied

Student C starts a two year part-time HNC in AY 10/11. Student C achieves the qualification and then starts a two year full-time Foundation degree in AY 12/13 starting from year one. Student C then starts year two of the Foundation degree in AY 13/14 however has to withdraw partway through the year. Student C's HEP award them a Cert HE for the course content which they successfully completed.

In AY 15/16 student C starts a three year Honours degree in AY 15/16. Because student C has a Cert HE the criteria in regulation 22(2) applies, therefore student C's remaining entitlement to tuition loan is calculated in accordance with regulation 22(5) as follows

$$(D+X) - PrC$$

Where D is the greater of 3 and the number of academic years that make up the ordinary duration of the course – in this scenario D = 3

X is— 1 where the ordinary duration of the preliminary course (or preliminary courses in total) was less than three years,

- the ordinary duration of the preliminary course (or preliminary courses in total) minus 1 if it was three years or more.

The ordinary duration of the two previous courses undertaken is P/T HNC =2 plus Cert HE =1  
 $2 + 1 = 3$  therefore in this Scenario, X is 2

$(3 + 2) - 4 = 1$  years of tuition fee loan (and any MG/SSG entitlement) remaining

Student D starts a 2 year HND in AY 09/10 and withdraws before the end of the 1st year for academic reasons. No qualification is awarded.

In AY 10/11 student D starts a Foundation Degree and due to personal reasons had to withdraw at the beginning of the 2nd academic year (AY 11/12) after successfully completing the year. Student B's provider award him an exit qualification of a Cert HE for the part of the course he successfully completed.

In AY 15/16 Student D starts an Honours degree that is 4 years in length.

Student B's entitlement to tuition loan and MG/SSG is calculated in accordance with regulation 22 as follows

$$(D+X) - PrC$$

Where D is the greater of 3 and the number of academic years that make up the ordinary duration of the course - in this scenario  $D = 4$ ,

X is— 1 where the ordinary duration of the preliminary course (or preliminary courses in total) was less than three years,

- the ordinary duration of the preliminary course (or preliminary courses in total) minus 1 if it was three years or more.

The ordinary duration combined of the two previous courses undertaken is  $2 + 1 = 3$  therefore in this Scenario, X is 2

PrC is the number of academic years that the student spent on preliminary courses.

In this case the PrC is 3 (1+2)

Student D's remaining entitlement is calculated as follows:

$(4+2) - 3 = 3$  years of tuition loan (and any MG/SSG entitlement) remaining