



EDUCATION AND SKILLS COMMITTEE

AGENDA

25th Meeting, 2019 (Session 5)

Wednesday 18 September 2019

The Committee will meet at 10.00 am in the Robert Burns Room (CR1).

1. **Decisions on taking business in private:** The Committee will decide whether to take items 5 and 6 in private.
2. **Subordinate legislation:** The Committee will take evidence on the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 (SSI 2019/draft) from—

Maree Todd MSP, Minister for Children and Young People, Dr Alison Cumming, Deputy Director for Early Learning and Childcare, and Claire Cullen, Solicitor, School Education Branch, Legal Directorate, Scottish Government.

3. **Subordinate legislation:** Maree Todd MSP, Minister for Children and Young People to move—

S5M-18219—That the Education and Skills Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 (SSI 2019/draft) be approved.

4. **Brexit and Higher Education:** The Committee will take evidence from—

Liam McCabe, President, NUS Scotland;

Mary Senior, Scotland Official, UCU Scotland;

Alastair Sim, Director, Universities Scotland.

5. **Review of evidence:** The Committee will consider the evidence it heard earlier under agenda item 4.
6. **Work programme:** The Committee will consider its work programme.

Roz Thomson
Clerk to the Education and Skills Committee
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Edinburgh
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The papers for this meeting are as follows—

Agenda item 2

Paper from the Clerk ES/S5/19/25/1

Submissions pack ES/S5/19/25/2

Agenda item 4

SPICe briefing paper ES/S5/19/25/3

Brexit and Higher Education submissions pack ES/S5/19/25/4

Agenda item 6

PRIVATE PAPER ES/S5/19/25/5 (P)

Education and Skills Committee

25th Meeting, 2019 (Session 5), Wednesday, 18th September 2019

Subordinate Legislation

Introduction

1. This paper seeks to inform the Committee's consideration of the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019, which is subject to the [affirmative procedure](#). If approved by the Parliament, the Amendment Order will come into force on the day after it is made. The Amendment Order together with its policy note are attached to this paper at **Annexe A** and **Annexe B**

Committee procedure

2. The lead committee must report to the Parliament with its recommendations on approval, or otherwise, no later than 40 days after the instrument is laid. This normally follows consideration of a motion from the Minister that the committee should recommend approval.
3. At the meeting, Members will have an opportunity to question the Minister for Children and Young People and her officials on the Amendment Order. Afterwards, the Minister will be invited to speak to the Amendment Order and move the motion recommending it be approved.

Purpose

4. The purpose of the instrument is to amend the Provision of Early Learning and Childcare (Specified Children) Order 2014, as amended ('the 2014 Order') to protect eligibility for 2-year-old children who qualify for access to funded early learning and childcare (ELC) due to their parents' receipt of Working Tax Credits and Child Tax Credits.

Consultation

5. The policy notes states that 'the statutory entitlement to funded ELC for eligible two-year olds was originally introduced in the Children and Young People (Scotland) Act 2014. As this amendment is being brought in to protect rather than modify eligibility in response to UK government policies – the Scottish Government has not conducted a specific consultation'.
6. As stated in the policy note the Scottish Government has 'discussed the proposed income threshold with a range of stakeholders, including individual local authorities and COSLA as our partner in the joint aspiration to improve the uptake and quality of the 2-year-old entitlement'.

Delegated Powers and Law Reform Committee

7. The Delegated Powers and Law Reform Committee considered the instrument on [3 September 2019](#) and determined that there were no issues within its remit to draw to the attention of the Parliament.

Action

8. The Committee will debate and be asked whether it agrees to motion S5M-18219 by Maree Todd MSP–

“That the Education and Skills Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 be approved.”

9. The Committee is required to report its decision to the Parliament by 8 October 2019. Reports of this nature are usually very short and factual. The Committee is invited to agree to delegate signing off the report to the Convener.

ANNEXE A

Draft Order laid before the Scottish Parliament under section 99(2) of the Children and Young People (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.**EDUCATION****The Provision of Early Learning and Childcare (Specified Children)
(Scotland) Amendment Order 2019**

Made - - - - *2019*

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 47(2)(c)(ii) of the Children and Young People (Scotland) Act 2014(1) and all other powers enabling them to do so.

In accordance with section 99(2) of that Act a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 and shall come into force on the day after the day on which it is made.

(2) In this Order, “the 2014 Order” means the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014(2).

Amendment of the 2014 Order

2.—(1) The 2014 Order is amended in accordance with this article.

(1) 2014 asp 8.

(2) S.S.I. 2014/196; relevant amending instruments are S.S.I. 2015/268 and S.S.I. 2017/182.

(2) In article 1 (citation, commencement, interpretation and application) for paragraph (2)(g)(ii)(aa)(3) substitute—

“(aa) the income calculated for the purpose of awarding those tax credits does not exceed £7,320;
”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(3) Paragraph (2)(g) was inserted by S.S.I. 2015/268, article 2(2)(a).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014 (S.S.I. 2014/196) (“the 2014 Order”). The 2014 Order specifies those children who are eligible pre-school children for the purposes of section 47(2)(c)(ii) of the Children & Young People (Scotland) Act 2014 (asp 8) (“the 2014 Act”) and who are therefore entitled to the mandatory amount of early learning and childcare (as defined in section 48 of the 2014 Act).

An eligible pre-school child is entitled to be provided with the mandatory amount of early learning and childcare under section 47 of the 2014 Act. “Early learning and childcare” is defined in section 46 of the 2014 Act as meaning a service, consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting. The “mandatory amount” of early learning and childcare is defined in section 48 of the 2014 Act as “(a) 600 hours in each year for which a child is an eligible pre-school child, and (b) a pro rata amount for each part of a year for which a child is an eligible pre-school child.” The Children and Young People (Scotland) Act 2014 (Modification) (No. 2) Order 2019 (S.S.I. 2019/207) will increase the mandatory amount from 600 hours to 1140 hours with effect from 1 August 2020.

The 2014 Order specifies that certain children whose parents are in receipt of “qualifying benefits” are eligible pre-school children. Article 1(2) of the 2014 Order defines “qualifying benefits” as including (in some circumstances) where a child’s parent is in receipt of child tax credit and working tax credit under Part 1 of the Tax Credits Act 2002 (c.21).

Article 2(2) of this Order amends article 1(2)(g)(ii)(aa) of the 2014 Order to provide that a qualifying benefit includes where the parent of a child is in receipt of an award of child tax credit and working tax credit where the income calculated for the purpose of awarding those tax credits does not exceed £7,320.

ANNEXE B**POLICY NOTE****THE PROVISION OF EARLY LEARNING AND CHILDCARE (SPECIFIED CHILDREN) (SCOTLAND) AMENDMENT ORDER 2019**

1. The above instrument was made in exercise of the powers conferred by section 47(2)(c)(ii) of the Children and Young People (Scotland) Act 2014 (the Act). This instrument is subject to affirmative procedure.

2. The purpose of the instrument is to amend the Provision of Early Learning and Childcare (Specified Children) Order 2014, as amended ('the 2014 Order') to protect eligibility for 2-year-old children who qualify for access to funded early learning and childcare (ELC) due to their parents' receipt of Working Tax Credits and Child Tax Credits.

Policy Objectives

3. The Scottish Government's objective is for every single one of Scotland's children to grow up in country where they are safe, loved, respected and able to reach their full potential. Evidence shows that high quality early learning and childcare brings many positive benefits for children, and in particular for those from disadvantaged background. The Scottish Government is committed to ensuring early access to statutory funded early learning and childcare for those children who will benefit from it most through the 2 year old funded ELC offer.

4. Statutory funded early learning and childcare (ELC) for 2 year old children is a 'passport benefit', where the entitlement depends on a child being an 'eligible child', which includes their parent being in receipt of certain benefits, as set out in the 2014 Order.

5. This instrument increases the income threshold to £7,320 per year for those in receipt of both Child Tax Credit and Working Tax Credit. This change is intended to mitigate the impact of separate changes to UK Government policy that would otherwise reduce the number of children eligible.

6. There is a similar criterion for those in receipt of Child Tax Credit only. We are not changing this as the income threshold is higher and the increase in the National Living Wage does not affect this part of the eligible population.

Background

7. Since 2015, eligibility criteria for the entitlement to a 2 year old place has included that a 2 year old is eligible where a parent receives maximum Child Tax Credit and maximum Working Tax Credit with an annual income that does not exceed a threshold set in UK Regulations of £6,420 or less. A combination of UK Government policies means that it is now not possible for a parent aged 25 and over to meet this criterion. These policies are:

- to increase annually the National Living Wage (the legal minimum wage for those age 25 and over, not to be confused with the 'real' living wage);

- to freeze income thresholds for receipt of maximum Working Tax Credit and maximum Child Tax Credit at £6,420 or less.
- from 1 April 2019 the annual income for a person aged 25 and over working 16 hours per week is £6,831.

8. This amendment will protect eligibility for households that have seen an increase in their earnings due to the increase in the National Living Wage. As it is anticipated that the National Living Wage will continue to rise over the next 3 years (up to at least 2022 based on estimates from the Office for Budget Responsibility), we have chosen a threshold that allows a degree of stability to 2021. It also aligns to the threshold used for those children who qualify for the 2 year old entitlement due to their families' receipt of Universal Credit. This should therefore provide consistency across benefit types as more families transition over to Universal Credit.

9. If we make no changes to the threshold, we estimate the eligible population will decrease by around 4,100 children based on 2017 estimates of the eligible population (of 14,216 children). This would represent 28% of that eligible population.

10. With the new income threshold of £7,320, it is estimated that the eligible population could increase by up to an additional 400 2-year olds compared to the 2017 eligible population. Due to uptake rates for the 2-year-old entitlement and continual migration from tax credits to Universal Credit, we estimate this is an upper range and it is likely that fewer individual children will become newly eligible. Arrangements are in place with local authorities to monitor any financial impact.

11. This number will reduce in time as more families switch over to Universal Credit and fewer children are eligible due to receipt of Tax Credits.

Consultation

12. The statutory entitlement to funded ELC for eligible two-year olds was originally introduced in the Children and Young People (Scotland) Act 2014. As this amendment is being brought in to protect rather than modify eligibility in response to UK government policies - we have not conducted a specific consultation.

13. We have discussed the proposed income threshold with a range of stakeholders, including individual local authorities and COSLA as our partner in the joint aspiration to improve the uptake and quality of the 2-year-old entitlement.

14. COSLA agree that these changes are necessary due to circumstances outwith the control of Scottish Government to ensure the policy intent for the 2-year-old offer is met. The impact of the policy will be monitored jointly by Scottish Government and COSLA through the ELC Finance Working Group.

15. We have received feedback from One Parent Families Scotland and the Child Poverty Action Group on the proposed amendment. We have also notified our wide stakeholder network to inform them of the proposal and to request feedback.

16. All stakeholders who have responded understand that we must protect eligibility for children who are eligible based on their parents' receipt of Working Tax Credits

and Child Tax Credits and agree there are benefits to the approach we have taken in setting the threshold at £7,320.

17. We plan to consider eligibility criteria for the 2-year-old entitlement as a whole in the future and will work with a wide range of stakeholders and partners at that point.

Impact Assessments

18. An EQIA has been completed on the provisions in this instrument. It is not considered that this instrument will be discriminatory on the basis of age, disability, race, religion or belief, sex, sexual orientation or gender reassignment. There is no negative impact on children's rights and wellbeing. We do not consider there to be any impacts on privacy or the environment.

Financial Effects

19. The income threshold proposed is based on modelling which protects the current level of entitlement to early learning and childcare for eligible 2 year olds and provides a degree of future-proofing against further increases in the National Living Wage.

20. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. Scottish Government accept that there is a financial impact as a result of the amendment as more families will become eligible for the entitlement. However, our modelling indicates this impact will be limited and manageable within the existing financial settlement. Any increase arising from this legislative change is also likely to be further offset by the continued gradual migration of families from Tax Credits to Universal Credit.

21. While we anticipate little or no material impact on local authorities' ability to fund this provision within the current financial settlement, both Scottish Government and COSLA will monitor the impact. We do not anticipate any material impact on ELC providers in the private and third sectors.

22. We will review the threshold in the future if it is considered necessary, for example if Local Authorities report a significant financial impact as a result of this change.

Scottish Government Early Learning and Childcare Directorate

20 June 2019

Education and Skills Committee**25th Meeting, 2019 (Session 5), Wednesday, 18 September 2019****Subordinate Legislation submissions pack**

In addition to the usual clerk's note on the affirmative instrument (paper 1) there is a submissions pack on this instrument. This includes a submission received from Save the Children specifically on this instrument (annexe C).

Members may wish to note that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019 being considered on 18 September amends the Provision of Early Learning and Childcare (Specified Children) (Scotland) Order 2014. The 2014 Order includes provisions ([Art 3](#)) that exempt children whose birthday falls in the period beginning on 1st August and ending on 31st December and have deferred entry into primary school from a statutory right to funded ELC. This was a topic of discussion when the Minister was last giving evidence to the Committee on [22 May 2019](#). The Minister committed to work with CoSLA and report back to the Committee.

Following the meeting the Committee wrote seeking additional information.

https://www.parliament.scot/S5_Education/General%20Documents/20190612Out_Ltr_to_Minister_CYP_re_Early_years_childcare_costs_Sub_leg.docx.pdf

The response dated 11 September updates the Committee on deferral (annexe A). The submissions pack also includes a letter from the Minister including on consultation with private providers, again this is in response to issues raised on 22 May (annexe B).

- [Annexe A - Letter from the Minister for Children and Young People 11 September 2019](#)
- [Annexe B - Letter from the Minister for Children and Young People 18 June 2019](#)
- [Annexe C - Submission from Save the Children](#)

Please also find relevant policy background on early learning and childcare in a SPICe briefing from April 2019 available [here](#). Pages 11 and 12 have information relevant to the order.

ANNEXE A

Ministear airson Clann agus Òigridh
Minister for Children and Young People Maree Todd BPA/MSP

Clare Adamson, MSP
Convenor Education and Skills Committee T3:40
The Scottish Parliament
Edinburgh
EH99 1SP
11 September 2019

Dear Clare,

SCHOOL DEFERRAL AND THE PROVISION OF DISCRETIONARY ELC

I would like to thank the Education and Skills Committee for their consideration of the two pieces of secondary legislation to support the Early Learning and Childcare (ELC) expansion programme on the 22nd May. I welcomed their unanimous agreement that both Orders should be approved.

During my appearance on 22nd May, colleagues asked a number of questions about deferral of school start. Following this discussion, I wrote to the Committee on 18th June to explain the further work I had commissioned from my officials:

1. As part of the process of updating the ELC Statutory Guidance to support the delivery of the expanded entitlement from August 2020 and the supporting policy framework, to take the opportunity to strengthen the relevant sections of the guidance and clarify the basis for the exercise of discretionary funded ELC in a deferred year.
2. To work with COSLA to further explore the issues associated with an additional year of funded ELC for children with mid-August to December birthdays who defer school start, including some analysis of the decisions taken by councils.

I would like to take this opportunity to update the Committee on the progress we have made on these commitments.

STATUTORY GUIDANCE REFRESH

Over the summer, my officials have begun to strengthen the relevant sections of the ELC statutory guidance relating to deferral, working in the first instance in with colleagues across the Scottish Government, COSLA, and Education Scotland. We intend the revised statutory guidance to:

- Clarify what the legislative framework is on deferral and eligibility for funded ELC in a deferred year;
- Provide additional guidance to support local authorities in making decisions about requests for discretionary funded ELC in a deferred year in line with Getting it right for every child; and
- Emphasise the Scottish Government's expectations around parental communication and involvement in decision-making about requests for discretionary funded ELC, including making a clear link to local authorities' broad statutory duties under the Scottish Schools (Parental Involvement) Act 2006.

It is important to me that parents, carers and their representatives have the opportunity to review and provide feedback on the updated guidance. I am therefore pleased that the revised deferral guidance will form part of the wider public consultation on refreshed statutory guidance to underpin the delivery of early learning and childcare that is due to launch later in the year. I will update the Committee on arrangements for this consultation in due course.

FURTHER ANALYSIS ON DEFERRAL AND ELC UPTAKE

My officials have reviewed the data that we currently hold on deferral and ELC uptake in order to better understand current practice and identify further analysis that can be undertaken.

Scottish ELC Census

My officials have reviewed the information collected through the Scottish ELC Census about registrations for funded ELC places. The 2018 ELC census data, published in December 2018¹, showed that 4,884 children deferred entry to Primary 1 (P1) and were registered for an additional year of funded ELC. This is an estimated 17% of all children born between mid-August and February.

We have considered whether further analysis would be possible through the Scottish ELC census. However, the ELC census does not currently allow us to analyse by date of birth or protected characteristic. It also does not tell us whether the additional funded ELC was granted on a discretionary or automatic basis.

¹ Scottish Government: Funded early learning and childcare statistics in Scotland:
<https://www2.gov.scot/Topics/Statistics/Browse/Children/Pubs-Pre-SchoolEducation>

A programme of work is underway to significantly improve the data we collect, and therefore the analysis we are able to undertake. By 2022, the ELC census will be based on an individual child level collection, and will collect characteristics data on children accessing funded ELC, including: sex, date of birth, ethnicity, disability status, whether the child has any additional support needs, and the home postcode of the child (to enable analysis by the Scottish Index of Multiple Deprivation (SIMD)). This will enable more substantive analysis of deferral – in particular, we will be able to look at deferral uptake rates and characteristics of those born between mid-August and December and those born in January-February who are receiving an additional year of funded ELC. However, the future ELC census will still not provide information about children who defer entry to school, but do not receive an additional year of funded ELC.

Growing Up in Scotland Study (GUS)

We have also looked at data on deferrals and ELC uptake from the Growing Up In Scotland (GUS) study which was published in 2012. This study – which is based on a relatively small sample – found that around 45% of children born in January or February and 15% of children born between September and December defer entry to primary school. The study also found that there was no difference in the overall likelihood of deferred entry based on family socio-economic characteristics. However, there have been significant changes to funded ELC in Scotland since this data was collected, and the study was on a relatively small scale. I am therefore not comfortable drawing firm conclusions as to the current picture of ELC uptake in a deferred year.

Future Analysis

I would like to better understand the picture of deferral and ELC uptake now, and my officials have explored a number of approaches in which to do this. We have considered with COSLA whether we could gather more, specific data about deferral and ELC uptake from local authorities. Unfortunately, this information is not collected consistently by local authorities at the moment. If we were to ask local authorities to develop and implement a new data collection, it would be a significant amount of time before we could analyse and draw conclusions from any new data. As we are already preparing to introduce a new ELC Census designed to improve our collective understanding of ELC provision, and local authorities are already supporting us in this substantial project, we do not consider it proportionate to develop a further specific data collection process on deferral.

I asked my officials to explore whether there are other existing, established data sources that could help improve our understanding of deferral in advance of the new ELC Census which begins in 2022. I am pleased to update the Committee that I have commissioned new analysis of the Scottish Pupil Census which I hope will provide interim results in advance of the new ELC Census.

The Scottish Pupil Census collects individual-level data on publicly-funded schools and their pupils. Data is collected from all local authority and grant-aided schools and school centres. As the pupil census collects information on age, it will be possible to isolate the older children who started P1 a year later than they were eligible to and are therefore likely to have deferred. It will also be possible to split these data into those with January and February birthdays (who would automatically receive an additional year of funded ELC), and those with August to December birthdays (whose parents would have to request an additional year of funded ELC be provided by the local authority in a deferred year). The pupil census also collects information on gender, ethnicity, disability, whether the child has an additional support need (ASN), and the home postcode of the child (to enable analysis by SIMD). This means we can explore the characteristics of children in P1 who are likely to have deferred entry.

This new analysis will be a helpful step in increasing our understanding of deferral in advance of the improved ELC census. I look forward to sharing the findings with the Committee once published.

PARENTAL AWARENESS AND COMMUNICATION OF DEFERRAL

The Committee also discussed the need to increase parental awareness of deferral; and for local authorities to improve their local communication. My officials continue to work with COSLA, and with parents and carers and their representatives, to ensure the information available at a national and local level is clear and consistent.

Following the COSLA Children and Young People's Board decision in April to adopt a consistent approach to communicating rights about deferred entry into primary 1 to parents and carers, COSLA officers have worked with colleagues from the ADES Early Years Network to identify best practice. The working group has developed clear and accessible guidance with input from the Give Them Time campaign, which they have shared with all local authorities for them to incorporate into their communications on deferrals, particularly on their websites, where appropriate. Local authorities have also agreed to make their policies and procedures on deferrals freely available to the public.

I look forward to meeting with members of the Give Them Time Campaign again at the end of this month to discuss these issues further.

I hope that this letter is helpful in setting out the important work underway to strengthen the statutory guidance supporting local authorities in exercising their statutory powers; enhance our understanding of ELC uptake in a deferred year; and improve communication with parents and carers both nationally and locally.

MAREE TODD

ANNEXE B

Ministear airson Clann agus Òigridh
Minister for Children and Young People Maree Todd BPA/MSP

Clare Adamson, MSP
Convenor Education and Skills Committee T3:40
The Scottish Parliament
Edinburgh
EH99 1SP

18 June 2019

Dear Clare,

I would like to thank the Committee for their consideration of the two pieces of secondary legislation to support the ELC expansion programme on the 22nd May and I welcomed their unanimous agreement that both Orders should be approved.

Thank you for following up with your letter of the [12th June 2019](#). I am able to provide the following information in response to the Committee's requests in relation to sustainable funding rates and issues associated with school deferral and the provision of discretionary ELC.

SUSTAINABLE FUNDING RATES

In April 2018 the Scottish Government agreed a landmark multi-year funding agreement with COSLA to fully fund the expansion of ELC. The funding package is unique to Scotland and is based on a robust, shared understanding of the costs attached to the expansion. The funding package, which is protected for investment in ELC, is underpinned by a shared commitment to pay sustainable rates to providers in the private and third sectors, including childminders, that reflect the cost of delivery from 2020. It includes funding to enable payment of the real Living Wage to all childcare workers delivering the funded entitlement. Sustainable rates for delivery of the expanded ELC offer from August 2020 onwards will be set by local authorities, in order to reflect local circumstances and in line with local democratic processes.

Scotland Excel have worked in collaboration with the sector, on behalf of the Scottish Government and COSLA, to develop technical guidance on how to set affordable and sustainable rates for providers in the private and third sectors, including childminders, from August 2020 onwards. In developing the guidance, Scotland Excel engaged extensively through focus groups with providers and local authorities. The guidance sets out that sustainable rates should be set on the basis of a shared understanding of the cost of delivering the funded entitlement and that local authorities and funded providers should work together to be as transparent and open as commercially reasonable when discussing rates and costs. The Scottish Government has worked with COSLA to put in place mechanisms, such as the ELC Partnership Forum, to support meaningful partnership working, as well as encouraging local authorities to introduce their own arrangements where these do not already exist.

Guidance on setting sustainable rates for August 2020 and beyond was published on the 29 April and can be accessed at: <https://www.gov.scot/publications/funding-follows-child-national-standard-early-learning-childcare-providers-guidance-setting-sustainable-rates-august-2020/>.

Following the publication of the Scotland Excel Guidance on setting sustainable rates, local authorities will begin work with partner providers to establish longer term funding rates for the full roll out of the expanded entitlement from August 2020.

To understand the changes in the sector, in recent years the Scottish Government wrote to local authorities on 8 April 2019 to request an update on their actions to support partnership in their area, and on the hourly rates that are paid to funded providers for the delivery of funded Early Learning and Childcare during the transition to August 2020. My officials are currently working with local authorities to quality assure their returns. Councillor Evison and I are due to consider and sign off this data at the next meeting of the Joint Delivery Board meeting on the 25 June and I will share this information with the Committee shortly thereafter. I will also be pleased to share information local authorities have provided on the wide range of actions they are taking to support providers during the journey to August 2020.

SCHOOL DEFERRAL AND THE PROVISION OF DISCRETIONARY ELC

In relation to my commitment to explore the issues associated with deferral, I can confirm that my officials are taking forward further analysis in partnership with COSLA. I expect to be able to share the findings from this work with the Committee by the end of summer recess. Over the summer we will also take forward work to strengthen the guidance on deferral to support local authorities in their decision-making.

The Committee also discussed parental awareness and communication. My officials have engaged positively with members of the Give Them Time campaign and with COSLA to improve the information that it is available to parents. Nationally, updates have already been made to the mygov.scot and Parentzone websites and information is now also available to parents on the Parent Club website and can be found at the following links:

<https://www.mygov.scot/childcare-costs-help/when-funded-early-learning-and-childcare-can-start/>

<https://education.gov.scot/parentzone/my-child/transitions/Starting%20school>

<https://www.parentclub.scot/elc>

I am pleased that local authorities are also working to ensure that they are providing clear, transparent and consistent information about the deferral process. Following their own engagement with the Give Them Time campaign, the COSLA Children and Young People Board agreed that local authorities will make local policies and procedures freely available to the public and be clear about who is involved in the decision-making processes. In April, COSLA established a working group to develop and share good practice examples which will support councils to ensure that information on deferrals is as clear as possible.

I hope that the information provided is helpful and reassures the Committee of the actions the Scottish Government is taking in relation to the issues raised.

MAREE TODD

ANNEXE C**Save the Children****Education & Skills Committee evidence session – early learning and childcare**

Save the Children welcomes the opportunity to give our views on the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2019. Our submission supports the proposed changes to the 2014 Order and focuses on the need for future scrutiny of the eligibility criteria and improving uptake of the offer. We hope this submission supports the Committee's consideration of the proposed legislative changes.

We have also produced a briefing, *Thriving at Two and Beyond*, which explores improving the uptake and quality of the two-year-old entitlement.² We encourage Committee members to use this as a basis to raise key issues with the Minister during the evidence session.

Introduction

A child's early years set the foundation for lifelong learning and development. Evidence shows that alongside support at home, all children, and particularly those living in poverty, can benefit from attending high quality early learning and childcare (ELC) to help them grow, develop and learn.³ Yet, we know that children from the most deprived areas are still more than twice as likely to have a developmental concern reported during their 27 – 30 month health review, compared to their better-off peers.⁴ This is set against high and rising levels of child poverty, with a third of families in Scotland where the youngest child is one or under already living in poverty.⁵ As a result, the poverty-related attainment gap starts very early and long before children begin school.

Save the Children has long recognised the potentially transformative impact of early learning and childcare for families in poverty. We campaigned for children from low income households to be entitled to funded childcare from age two. We were delighted when our campaign calls were heard by the Scottish Parliament and the entitlement was introduced in 2015. However, exactly four years on, only a third of eligible families have taken up this place. We are concerned that many young children living in poverty are therefore missing out on the significant benefits that early learning and childcare can provide.

We welcome recognition from Scottish Government on the need to support improved uptake and the efforts being made by local authorities and partners to achieve this. We believe further action could be taken to enable two-year-olds living in poverty to access the offer and ensure Scottish Government meets its ambition to nearly double the uptake.⁶ The Committee should take this opportunity to ask the Minister what

² Save the Children (2019), [Thriving at Two and Beyond](#)

³ B. Taggart et al., (2015), [Effective pre-school, primary and secondary education project: How pre-school influences children and young people's attainment and developmental outcomes over time](#).

⁴ ISD Scotland (2019), [27 – 30 month review statistics](#)

⁵ Scottish Government (2018), [Every child, every chance - Annex 2](#)

⁶ Maree Todd (2018), [Ministerial statement on early learning and childcare](#)

progress is being made to improve uptake, what steps have been taken and when does the Minister think this goal will be achieved.

Our key comments

- Save the Children supports the proposed changes to the Provision of Early Learning and Childcare (Specified Children) Order 2014, as we believe early access to ELC can benefit children living in poverty and that current eligibility should be protected.
- We agree with the level of the raised income threshold to future-proof against further policy changes until 2021, particularly at UK Government level.
- The Committee should return to this issue in future to ensure the threshold level remains appropriate and to provide scrutiny of the broad eligibility criteria for the entitlement.
- Scottish Government must ensure this change in eligibility is accompanied by communication and engagement activities to boost awareness and uptake of the offer.

Proposed changes to the Provision of Early Learning and Childcare (Specified Children) Order 2014

We warmly welcome Scottish Government bringing this instrument forward to ensure that certain low-income families continue to qualify for access to funded early learning and childcare.⁷ As government sets out, the amendment will protect eligibility for two-year-old children who qualify for funded early learning and childcare due to their parents' receipt of maximum Child Tax Credit and maximum Working Tax Credit.

The proposed amendment will ensure low-income families will not lose access to the entitlement. We know that high quality early learning and childcare can provide enriching and stimulating experiences for children and has the potential to enhance their early development, particularly for those from a low-income background. Raising the income threshold will ensure these families do not miss out on the offer and that every child will be able to access the additional benefits that childcare provides.

We also agree with the proposed level of the raised income threshold, as laid out by the instrument. The National Living Wage is expected to rise over the next three years, so the proposal guards against families losing eligibility due to increases in earnings through policy changes outwith Scottish Government's control. It is also reassuring that the proposed level aligns with the Universal Credit threshold; as more families transition across to the new benefit, this will ensure stability and continued access to the entitlement.

Future scrutiny of the eligibility criteria

The proposed level of the raised income threshold should protect eligibility whilst households are moved from the legacy benefits onto Universal Credit. However, we are aware that the managed migration has been delayed. We therefore urge the Committee to return to this issue in a few years given the protracted roll out of

⁷ Scottish Government (2019), [Provision of Early Learning and Childcare \(Specified Children\) \(Scotland\) Amendment Order 2019](#)

Universal Credit. This will ensure the revised threshold is still fit for purpose and reflects further increases in the National Living Wage, avoiding unintended consequences for low-income families who might lose eligibility.

The policy note details Scottish Government plans to consider eligibility criteria for the two-year-old entitlement as a whole in the future. Again, we recommend that the Committee returns to the issue at this point to scrutinise these proposals to ensure children from disadvantaged backgrounds, including those experiencing poverty, who would benefit the most from the two-year-old ELC offer have access.

Improving uptake of the two-year-old entitlement

While this instrument aims to ensure that eligible families are able to continue to access funded ELC for their two-year olds, it remains a concern that only a third of eligible two-year-olds are currently accessing their funded place. Scottish Government should use this amendment to eligibility, along with the early learning and childcare expansion, to drive communications about the offer. Studies have shown that a fifth of all parents are not using the entitlement because of a lack of awareness of the offer.⁸ We also know that even where families have heard about the offer, they are not clear about the eligibility criteria. The proposed amendment to the 2014 Order should therefore be used as an opportunity to develop and disseminate clear and accessible communications about the entitlement and eligibility criteria, along with discussing the benefits of early learning and childcare for both children and parents. As part of the funding agreement with COSLA in 2018, the Minister promised a near-doubling of uptake among eligible two-year-olds (to 64% or almost two thirds of eligible children).⁹ Clear communication about the offer will be crucial in ensuring this ambition is met.¹⁰

Further information

Please contact: Francesca de Munnich, Policy, Advocacy and Campaigns Officer

⁸ Scottish Government (2017), [Drivers and barriers to uptake of early learning and childcare among two year olds](#)

⁹ Maree Todd (2018), [Ministerial statement on early learning and childcare](#)

¹⁰ Save the Children (2019), [Thriving at Two and Beyond](#)

Education and Skills Committee
Background briefing: Brexit and Higher Education
Wednesday 18 September 2019

INTRODUCTION

This paper provides members with background information to inform the one-off session on the impact of Brexit on higher education in Scotland.

Attending the Committee meeting will be:

- Alistair Sim, Director, Universities Scotland
- Liam McCabe, NUS Scotland President
- Mary Senior, Scotland Official, UCU

This [SPICe briefing](#) from 2016 considered many of the issues identified as impacting on higher education soon after the referendum result was announced. Some of the same issues still apply, although there are recent developments on some of these issues, which are noted below where relevant.

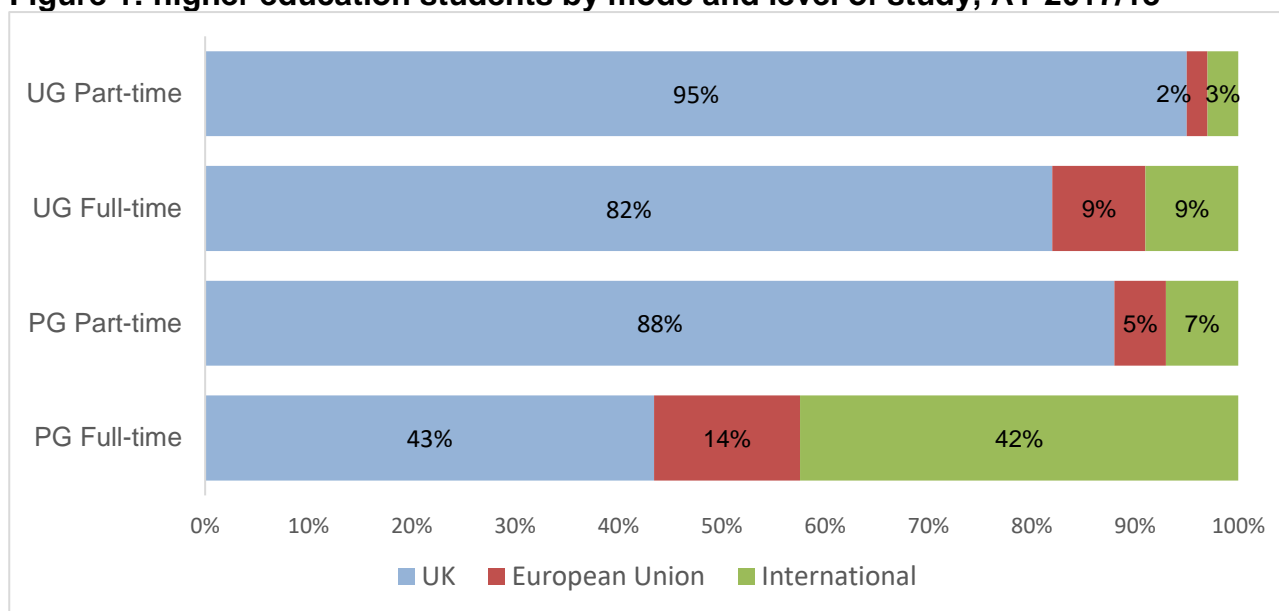
THEME 1: STUDENT MOBILITY

Data from the Higher Education Statistics Agency (HESA) for students enrolled at Scottish higher education institutions (HEIs) in academic year 2017/18 shows that EU nationals represented 9 per cent of the full-time undergraduate population and 14 per cent of the postgraduate (PG) population (see Figure 1). In contrast, there are fewer EU nationals taking part in part time study either at UG or PG level (2% and 5% respectively).

This information provides an overview of EU nationals participation levels at Scottish HEIs. There are, however, no published sources that report on the rate of participation of EU nationals within each individual Scottish HEI.

Data from UCAS, on applications to study at UK HEIs (see Table 1), similarly only offer a picture for what is happening at the Scotland level, not where there may be differences between HEIs.

Figure 1: higher education students by mode and level of study, AY 2017/18



Source: [HESA 2019](#)

Table 1 (overleaf) shows numbers of applicants for full time degree programmes at UK HEIs as these stood at the January deadline each year for those seeking entry for academic year 2010/11 to 2019/2020.

The table shows a reduction in the number of applications from the EU to Scottish universities in 2019 compared with 2018 (from 42,290 in 2018 to 41,350 in 2019). It also shows that there has been an increase in applications to study in England in both 2018 and 2019 after a drop in 2017 (which was felt by all UK countries). It is not clear what lies behind the increase in applications to study in England in these most recent two years.

There are no public sources that report on the number of Scottish domiciled students who opt to pursue their degree or postgraduate level studies at HEIs in other EU member states. As such, it is not clear what the implications of leaving the EU has for those pursuing studies in other EU countries, including their continued access to any reduced tuition fee arrangement that is shared with home students (which Scots nationals would gain access to through EU Treaty agreements that mean the host country cannot treat a student from another EU member state less favourably than someone from the home country for the purposes of tuition fee arrangements).

ERASMUS+

In early 2018, the Culture, Tourism, Europe and External Relations Committee conducted a short and focused inquiry into Scotland's participation in Erasmus+. The inquiry aimed to learn more about the opportunities available under Erasmus+ and consider the implications of Scotland no longer participating in the programme after the UK withdraws from the EU. The report from that inquiry can be found [here](#) and the Committee debate on the inquiry findings, which took place on 16 May 2018, can be found [here](#).

Erasmus+ is the European Union programme for education, training, youth and sport. It runs for seven years, from 2014 to 2020 inclusive, with organisations from participant countries invited to apply for funding each year to undertake eligible activities. The current ERASMUS+ programme brings together a number of EU funds that operated during the 2007-2013 programme period, including the Lifelong Learning Programme, the Youth in

Action Programme and the Erasmus Mundus Programme. The [Erasmus+ UK website](#) notes that:

Erasmus+ aims to modernise education, training and youth work across Europe. It is open to education, training, youth and sport organisations across all sectors of lifelong learning, including school education, further and higher education, adult education and the youth sector. It offers exciting opportunities for UK participants to study, work, volunteer, teach and train abroad.”

A key strand of the programme impacting on higher education students is the opportunity afforded to study abroad for up to one year in another European university or to gain international work experience in a European organisation. Data on participation through this route is reported on the [Erasmus+ UK National Agency](#) website. Erasmus+ UK is a partnership between the British Council and Ecorys UK. The most up to date figures currently available are for the period academic year 2014/15 to 2016/17. Table 2 shows that the University of Edinburgh has the highest participation in the higher education study or work strand of Erasmus+, followed by the University of Strathclyde.

Participation in Erasmus is not exclusively for EU member states. Other participants are EFTA countries (Iceland, Liechtenstein, Norway, and Switzerland) and other countries covered by the European neighbourhood policy that have concluded agreements with the EU providing of participation in the programme, subject to the conclusion of a bilateral agreement with the EU on the conditions of their participation in the programme. Programme countries are subject to all the obligations of the programme including the requirement to set up a national agency and contributing financially to the programme.

In its [written submission](#) to the Culture, Tourism, Europe and External Relations Committee meeting on 11 January 2018, the British Council provided details of the Erasmus+ funding received in Scotland during 2017:

“In 2017 Scotland received its highest ever allocation of Erasmus+ funding. Nearly €21m was awarded compared to €16m in the previous year. The funds benefited 159 Scottish organisations in the higher and adult education, schools, youth, and vocational education and training sectors. From that total:

- €11.4m was received by Scotland’s universities;
- €2.3m was received by Scotland’s schools;
- €4.75m was received by Scottish organisations working in vocational education and training;
- €1.6m was received by Scottish organisations working in adult education;
- €756k was received by Scottish youth work organisations.

Table 1: Application from EU nationals to study at UK HEIs, by country and year of application.

Domicile of applicant and country of provider		2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
EU (excluding UK)	England	119,790	134,810	110,520	115,790	125,650	138,400	148,280	136,460	141,900	145,570
	Northern Ireland	4,380	3,730	3,280	3,280	3,370	3,160	2,930	2,700	2,930	2,770
	Scotland	28,570	34,560	40,330	43,340	42,770	43,740	44,430	42,250	42,290	41,350
	Wales	4,440	4,200	3,770	4,210	4,780	5,030	6,620	6,060	5,870	4,900
	UK	157,170	177,300	157,890	166,620	176,560	190,330	202,250	187,470	192,980	194,590

[Source: UCAS application data](#)

Table 2: Erasmus higher education statistics: student mobility in academic years 2014/15 to 2016/17

Institution Name	2014/15			2015/16			2016/17		
	Study	Work	Total	Study	Work	Total	Study	Work	Total
The University of Edinburgh	373	93	466	358	177	535	368	217	585
University of Strathclyde	236	69	305	256	100	356	247	113	360
University of Glasgow	192	150	342	212	99	311	214	126	340
The University of Aberdeen	128	32	160	118	43	161	139	53	192
The Robert Gordon University	105	21	126	140	24	164	145	28	173
Heriot-Watt University	150	1	151	194	10	204	114	48	162
The Glasgow Caledonian University	143	12	155	108	16	124	142	12	154
The University of St Andrews	63	43	106	71	71	142	60	67	127
Edinburgh Napier University	116	9	125	101	13	114	103	17	120
The University of Stirling	55	2	57	69	4	73	84	8	92
University of Dundee	39	19	58	42	23	65	59	19	78
University of The West of Scotland	61	4	65	78	6	84	49	18	67
The Glasgow School of Art	44	6	50	38	11	49	41	7	48
The University of Abertay Dundee	9	3	12	20	2	22	14	3	17
Dundee and Angus College	0	0	0	0	0	0	6	0	6
Perth College UHI	0	0	0	0	0	0	6	0	6
Queen Margaret University, Edinburgh	6	0	6	6	0	6	6	0	6
Royal Conservatoire of Scotland	7	1	8	10	0	10	5	0	5
The Scottish Association for Marine Science	6	0	6	5	3	8	4	0	4
Inverness College UHI	1	0	1	1	0	1	2	1	3
SRUC	2	0	2	0	0	0	0	2	2
University of the Highland Islands	0	0	0	0	0	0	1	0	1

Moray College UHI	1	0	1	0	0	0	0	0	0
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Source: [ERASMUS+ statistics](#): "2014-2017 Higher education mobility statistics" (Extract from Table 2 "outgoing student numbers by sending institution")

To date, it remains unclear whether the UK will seek to continue participation in the Erasmus programme after exiting the EU. Universities Scotland in its paper to inform the Chamber debate on [10 September 2019](#) noted that its priority is that Scotland retain full, no interruption, access to Erasmus on an affordable basis. If, however, following Brexit, the UK chooses not to be a full participant in Erasmus: “then if there is an option for Scotland to become an associate Erasmus member on an opt-in basis we would welcome full exploration and cost/benefit analysis of that.”

The current programme ends with the current financial framework in December 2020. The replacement programme will commence from January 2021. Whether the UK remains part of the current programme after exit from the EU (when that occurs) or will take part in the replacement programme from 2021 will depend on the agreements reached as part of leaving the EU. The most recent information from the Scottish Government was published in [August 2019](#).

Members may wish to explore with the panel:

- **The potential impact of Brexit, including a no deal scenario, on student mobility including Erasmus**
- **What representations the organisations on the panel are making at a UK Government and Scottish Government level on these impacts**
- **What practical steps the UK Government or the Scottish Government could take at this stage to clarify their policy intention or mitigate certain impacts**

THEME 2: RESEARCH FUNDING

Table 3 presents the most recent figures for income by Scottish HEIs for research from European sources. This shows that the University of Edinburgh had by far the highest income from all European sources (£56.7 million), with £40.6 million coming from EU sources (mainly EU government bodies) and almost £16.1 million coming from non-EU European sources (from a mix of non-EU European based charities and other non-EU sources).

The Scottish Government, in its 2016 publication: [Scotland's Place in Europe](#) noted that:

Scotland has a highly esteemed world-class university sector, with five universities in the global top 200 of the Times Higher Education (THE) World University Rankings in 2016-17. This is more per head of population than any other country except Luxembourg. Since 2014, almost €296 million of funding has been secured by Scottish organisations from Horizon 2020. In 2014-15 alone, Scottish universities secured £94 million from various EU sources (including EU governments, charities, business and other sources), representing 9.4% of their total research income. As important will be the world leading, multi-disciplinary, cross-border collaborations made possible by this funding. We have a strong international reputation for constructive partnership on research and development and are determined to ensure that continues to be the case.

Horizon 2020 is Europe's Research and Innovation programme. With more than €76 billion of funding available between 2014 and 2020 for cutting-edge projects, Horizon 2020 aims

to ensure that the best ideas and discoveries are brought to the market faster and that their results help drive social and economic growth in Europe. The opportunities that Horizon 2020 brings are open to a wide array of organisations, including universities, research institutes, businesses and public and third-sector organisations. The programme focuses on three core themes:

- Excellent science – aiming to strengthen the EU's position in science by providing a boost to top-level research in Europe, including through the European Research Council

Table 3: Income from EU / other European sources, academic year 2017/18 (£thousand)

	EU government bodies	EU-based charities (open competition)	EU industry, commerce and public corporations	EU other	Total EU	Non-EU-based charities (open competitive process)	Non-EU industry, commerce and public corporations	Non-EU other	Total non-EU	Total EU and non-EU
The University of Edinburgh	36,207	206	2,981	1,225	40,619	5,648	3,323	7,112	16,083	56,702
The University of Glasgow	16,121	44	1,963	415	18,543	1,457	4,159	2,781	8,397	26,940
The University of Dundee	7,100	210	7,780	363	15,453	2,149	2,267	1,034	5,450	20,903
The University of Strathclyde	7,350	15	1,252	397	9,014	0	1,645	1,693	3,338	12,352
The University of St Andrews	7,271	49	227	579	8,126	1,280	1,365	1,775	4,420	12,546
Heriot-Watt University	5,812	0	0	702	6,514	0	2,991	316	3,307	9,821
The University of Aberdeen	4,996	78	707	93	5,874	205	6,248	404	6,857	12,731
University of the Highlands and Islands	5,253	0	221	35	5,509	0	511	22	533	6,042
The University of Stirling	1,783	60	119	85	2,047	242	211	279	732	2,779
The University of the West of Scotland	1,401	3	0	317	1,721	2	20	18	40	1,761
Glasgow Caledonian University	855	0	25	4	884	0	114	22	136	1,020
Edinburgh Napier University	705	0	42	0	747	0	0	136	136	883
SRUC	472	0	0	257	729	0	0	178	178	907
The Robert Gordon University	335	0	52	11	398	21	189	25	235	633
University of Abertay Dundee	167	0	0	5	172	0	0	0	0	172
Glasgow School of Art	0	0	0	0	0	0	0	10	10	10
Queen Margaret University, Edinburgh	0	0	0	0	0	50	0	67	117	117
Royal Conservatoire of Scotland	0	0	0	-25	-25	0	0	0	0	-25
Total	95,828	665	15,369	4,463	116,325	11,054	23,043	15,872	49,969	166,294

Source: [HESA online \(Table 7\)](#)

- Industrial leadership – aiming to strengthen industrial leadership in innovation, including through major investment in key technologies and greater access to capital and support for Small to Medium-sized Enterprises (SME)
- Societal challenges - helping to tackle major societal challenges across Europe such as climate change; sustainable transport and mobility; making renewable energy more affordable; ensuring food safety and security; and coping with the challenge of an ageing population

At a debate in the Scottish Parliament on [10 September](#), Richard Lochhead MSP noted that “Scotland has competitively won almost €650 million from” Horizon 2020. He goes on to point out that “access to this funding is of critical importance to researchers, just as is the ability to easily travel from project to project”. Other Members taking part in the debate added their concern about the loss of access to Horizon 2020 once the UK has left the EU. For example, Daniel Johnson MSP noted:

The funding issues are of equal concern. In [the University of Edinburgh] alone, there are 91 Horizon 2020 projects, and 10 per cent of all its research funding comes from the EU. That research is at risk. The very basis of research, and our ability to carry it out in a world-class and world-leading way, are in jeopardy because of the Brexit proposals that we have in front of us.

European Structural and Innovation Funds

The 2016 [SPICe briefing](#) includes information on the European Structural and Investment Fund (ESIF). ESIF provide EU member states with financial assistance to deliver the Europe 2020 strategy, focusing on the following priorities:

- Smart: developing an economy based on knowledge and innovation
- Sustainable: promoting a resource efficient, greener and more competitive economy.
- Inclusive: fostering a high employment economy delivering social and territorial cohesion.

The Scottish Government identified its own priorities under these themes, which includes:

- reducing poverty and social exclusion
- boosting educational attainment and skills development
- growing employment levels, economic activity and innovation
- climate change/renewable energy

While proportionately ESIF funding goes to colleges rather than universities, both University of Highlands and Islands and SRUC are HEIs that gain from this funding source.

The Scottish Funding Council (in personal communication) has confirmed that UHI and SRUC in 2019-2020 will receive a total of £5.8 million of ESIF related funding - £3.2m from ESF and £2.6 million from SFC match-funding. This funding is intended to be used among other things to provide higher level accredited nationally recognised qualifications as part of *Developing Scotland's Workforce* (DSW). DSW aims to address regional skills gaps and skills shortages associated with key employment sectors. The project provides higher level skills to support the development of emerging growth areas. Funding allows the provision

of additional further and higher education activity in key regions – Lowland and Uplands Scotland (LUPS) and Highlands & Islands (as a transitional region).

In addition to the funding that SFC allocates, HEIs can also receive ESIF funding from other sources including:

- European Regional Development Fund (ERDF) monies intended to support Scottish businesses to develop new products and services and collaborate with Scottish HEIs (as mentioned in the 2016 SPICe briefing)
- Universities accessing INTERREG funding – another stream of ERDF that supports transnational projects in areas like health, environment, research, education, transport and sustainable energy.

It is also worth noting that much of the apprenticeship funding in Scotland (e.g. Foundation and Modern Apprenticeships in colleges and Graduate Apprenticeships in HEIs) is underpinned by ESIF funding.

The SFC also noted (in personal communication) that there are indirect ways that both HEIs and colleges may be benefiting from ESIF funding. For example, other partners such as local authorities and third sector organisations might receive EU funding and use this to commission a bespoke course in a local college or university. Another example is infrastructure projects (e.g. improvements to travel networks in rural areas) that may be funded by EU sources and have a benefit to those accessing HEIs and colleges.

Members may wish to explore with the panel:

- **The potential impact of Brexit, including a no deal scenario, on research funding including ESIF**
- **What representations the organisations on the panel are making at a UK Government and Scottish Government level on these impacts**
- **What practical steps the UK Government or the Scottish Government could take at this stage to clarify their policy intention or mitigate certain impacts**

THEME 3: WORKFORCE MOBILITY

A [briefing](#) produced by the Scottish Funding Council in December 2018 on the potential impacts on colleges and universities from leaving the EU includes discussion on the issue of EU staffing at Scottish institutions. It notes that:

Scotland's internationally renowned research and innovation base is reliant on its ability to attract, recruit and retain internationally mobile talent. This applies not only to researchers and academics, but also to support staff, such as laboratory technicians.

Scottish institutions are reliant on the contributions of non-UK EU and non-EU teaching staff. For example, in universities 20.7% of staff (3,695) [in 2016-17] with research, or

teaching and research, contracts are EU nationals, and this proportion is even higher in some disciplines. In addition, 27% of all research-only staff are EU citizens.

There is anecdotal evidence that the potential risks to free movement post-Brexit, coupled with the changed status of EU citizens in the UK and the loss of EU funding for research, are already affecting the decisions being made by the EU staff currently in Scotland. This includes considering and/or leaving their posts.

If changes to immigration policy affect institutions' ability to attract the best staff, Scotland's capacity to continue delivering high-quality and effective learning and research would be negatively affected.

As with students, staff from other countries contribute to the internationalisation of colleges and universities, and the communities in which they are located. A drop in the number of non-UK EU staff would weaken this international atmosphere.

UCU's written submission to this session reiterates this point about the important role played by research and teaching staff who are EU nationals and who are dealing with the changing situation, including making applications through the EU settlement scheme. It notes concern about poor administration of the scheme and the impact of this on applicants.

Members may wish to explore with the panel:

- **The potential impact of Brexit, including a no deal scenario, on workforce mobility**
- **What representations the organisations on the panel are making at a UK Government and Scottish Government level on these impacts**
- **What practical steps the UK Government or the Scottish Government could take at this stage to clarify their policy intention or mitigate certain impacts**

THEME 4: FUTURE VISA ARRANGEMENTS

Once the UK has left the EU, the future for students and staff from other EU member states will be affected by decisions yet to be agreed around freedom of movement rights. [Universities Scotland](#) has recently briefed on three aspects of freedom of movement rights that impact on Scottish students and staff.

Temporary Leave to Remain

The proposed European Temporary Leave to Remain policy, which was announced in January 2019 and confirmed by Home Secretary Priti Patel MP in September 2019, requires EU nationals wanting to move to the UK for more than three months - after the UK's exit from the EU but before the end of 2020 - to have a temporary immigration status lasting up to 36 months on a non-extendable basis. This policy would apply to all EU/EEA students studying in Scotland after the UK leaves the EU.

Universities Scotland has noted that the 36-month (3 year) time limit would disproportionately disadvantage Scotland's universities more so than any other part of the UK because of the standard four-year undergraduate degree in Scotland. It's been described as a "kick in the teeth to Scottish universities" and policy making "on the hoof" when it was first announced in January 2019. Universities Scotland notes:

HESA student data confirms that 96.4% of all EU students on undergraduate courses in Scotland's universities expect their length of study to be greater than three years. This compares with only 35.1% of EU students at English universities (who are likely to be studying 5-year medical, engineering degrees or similar).

This issue has been raised with Priti Patel MP in a letter send by the [Education and Skills Committee](#) on 21 August 2019. So far, no response has been received.

Tier 1 'Exceptional Talent' visa

On 8 August, the Prime Minister announced a "shake-up" of the [Tier 1 visa route](#) which relates to exceptional talent (a recent announcement by the UK Government on changes in relation to immigration rules can be found [here](#)).

Universities Scotland notes that the PM's motivation for these changes is to allow the UK to attract elite researchers and specialists into the UK. Universities Scotland has "cautiously welcomed the announcement as a *potential* signal of a positive new direction for UK Government immigration policy. "It's a recognition that the UK needs to remain open to talent from across the world post-Brexit." It also welcomes that the Tier 1 Exceptional Talent Visa (as it currently stands) is not restricted to those working in science and maths; it also applies to exceptionally talented individuals in humanities, social science and the arts, which all contribute positively to the economy and society.

The welcome from Universities Scotland is, however, a cautious one. The reasons are that the policy details of the scheme are yet to be clarified. The Tier 1 visa has always been a marginal part of UK immigration so it is not yet clear if the announcement will lead to any significant practical changes. The [cap on endorsements](#) at 2,000 each year (and a cap of a maximum of 200 visa endorsements open to the very small number of organisations that can endorse) means this route is open to very few individuals each year. Universities Scotland has called for an increase to the list of organisations that can endorse 'exceptional' talent. It has also requested that the extension of the scheme covers the whole of the UK, including higher education institutions.

Post-Brexit Immigration policy

Universities Scotland suggests that the UK's exit from the EU "necessitates a complete review of the immigration system" in order to continue to enable and encourage staff and students from EU countries to come and to stay in Scotland, "while opening up the UK to the rest of the world on a competitive basis". As things stand, Universities Scotland cites a 2015 study that found that 36 per cent of prospective students who chose not to study in the UK cited post-study work options as the principle reason. Job prospects were also raised as issues of concern.

At the [Scottish Parliament debate](#) on 10 September, Richard Lochhead MSP noted this same point about restrictive or expensive visa conditions, in this case pointing to the impact on those considering places to pursue postgraduate study. The tier 4 visa that is already used by international students from outside the EU, can cost more than £1,000. As

there is currently a free movement right for EU nationals, this change could act as a significant disincentive to EU students to come to the UK.

On [11 September](#) the UK Government has announced the reintroduction of post-study work visas. This previous post-study work visa scheme was scrapped in 2012. The new 'Graduate' route will be open to all international students "who have valid UK immigration status as a student and have successfully completed a course of study in any subject at undergraduate level or above at an approved" UK HEI. The visa will allow eligible graduates to work, or look for work, in any career or position of their choice for two years after completing their studies. The extent to which this visa offer would be of value to EU nationals who have studied in Scotland, or incentivise those considering pursuing their studies in Scotland, after the UK leaves the EU is not clear.

Members may wish to explore with the panel:

- **The potential impact of Brexit, including a no deal scenario, on visa arrangements**
- **What representations the organisations on the panel are making at a UK Government and Scottish Government level on these impacts**
- **What practical steps the UK Government or the Scottish Government could take at this stage to clarify their policy intention or mitigate certain impacts**

Suzi Macpherson
SPICe Research
12 September 2019

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot

Education and Skills Committee

25th Meeting, 2019 (Session 5), Wednesday, 18 September 2019

Brexit and Higher Education submissions pack

The following submissions have been received from witnesses.

- [University and College Union Scotland \(UCU\)](#)
- [National Union of Student Scotland \(NUS\)](#)
- [Universities Scotland](#)

Additional Submission

Given the role colleges play in the provision of higher education, the Committee has also invited a submission from Colleges Scotland.

- [Colleges Scotland](#)

ANNEXE A**UCU Scotland**

The University and College Union (UCU) is the largest trade union in the post-16 education sector in the UK, representing academic and related members across the UK, and is the largest union in the higher education sector in Scotland. We are pleased to submit this evidence on the impact of Brexit on higher education and look forward to attending the committee on 18 September.

UCU consulted members in 2018, where 89% of members responding indicated their preference for the UK government to hold a public vote on any withdrawal agreement negotiated. We hold deep reservations about a no deal Brexit and the disastrous consequences both for higher education as a sector and also for workers' rights and working conditions across the UK.

Freedom of movement and immigration:

The announcement that the UK government are planning to end freedom of movement immediately on 31 October 2019 in the event of a no-deal scenario led to unacceptable uncertainty for many higher education staff, including in Scotland where around a fifth (1) of research and teaching staff are EU nationals.

UCU has been encouraging members who are non-UK EU citizens to apply to the EU settlement scheme despite the complaints about poor administration and has also set up an immigration legal service where members can get help from immigration law specialists. In 2018 we lobbied universities to cover the costs of the application before the UK government announced the end of charging. Following the announcement of the prorogation of Parliament and the ending of freedom of movement immediately following a no-deal Brexit on 31 October, UCU orchestrated a campaign encouraging branches and members to call on their higher education institution to defend the status of EU staff, students and their families; and to help affected staff with legal advice and support. Our general secretary wrote to the prime minister and home secretary; and members were additionally encouraged to contact politicians and ask them to commit to guaranteeing the rights of EU citizens.

Since those actions, the UK government has clarified this situation for EU citizens, stating in a 4 September statement in Parliament that, as well as the EU settlement scheme, in anticipation of a review of the UK's immigration system, EU citizens moving to the UK after Brexit will be able to apply to a new European temporary leave to remain scheme until the end of 2020 and that EU citizens currently living in the UK also have until, at least, until 31 December 2020 to apply to the existing EU settlement scheme. This takes away the initial worry for EU nationals working in Scottish higher education that, had they not applied to the settlement scheme by now, and if they were outwith the UK after 31 October that they would not be able to return to the UK to their jobs and families. The temporary scheme, however, will only grant temporary leave to remain for a period of 36 months, after which time the new immigration system should, according to the UK government be up and running. However, a Scottish honours degree lasts for 48 months, not 36. This anomaly was well explored around

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http://www.sfc.ac.uk/web/FILES/corporatepublications_sfccp012018/SFCCP012018_EU_Exit_and_Scottish_colleges_and_universities.pdf

the time of the last proposed date for the UK leaving the UK at the end of March 2019, meaning that they, along with other students across the UK whose degrees take longer than three years, would need to apply for visas with the resultant additional costs midway through their studies. This is not an appealing proposition for universities marketing their courses to prospective students.

Other concerns:

The ending of freedom of movement and its impact on the large number of students and staff in Scottish higher education is towards the top of UCU's concerns over Brexit given the effect on our members, but it is not the only one.

We share much of the sector's worries over how Brexit will impact of the international status of Scotland's higher education sector; and the future of research and collaboration, particularly around Horizon 2020 and also for the student experience and the future of Erasmus+ (and both of these schemes' successor programmes).

Universities UK in their briefing on the immediate consequences of a no-deal Brexit report a sharp drop in UK universities leading projects through Horizon 2020 due to uncertainty and this reflects our feedback from UCU members.

Likewise, figures (2) show that between 2014 and 2017, 2393 students from Scottish universities took part in the Erasmus scheme and many EU students study in Scotland. As impact studies have demonstrated (3), there are benefits both to the host institutions and to the students undertaking these experiences, including improved academic attainment, enhanced employment prospects, development of language and inter-personal skills.

Conclusion:

In putting this briefing together, UCU notes that we submitted evidence (4) in August 2016 to the Parliament's European and External Relations Committee – immediately following the vote to leave the EU – and the issues raised then: the status of EU citizens living in Scotland and working in higher education and calling for the UK government to clarify its position; the need to reduce the threshold for higher education workers applying for visas; Erasmus+ and Horizon 2020 and the need for the UK government to fund UK higher education remaining part of those collaborations and networks post Brexit are all still pressing.

The fact that exactly three years after raising those issues they are still unanswered and remain as unclear as they were in the weeks immediately following the referendum is telling and unacceptable.

For more information contact:

Murdo Mathison, Policy and Communications Officer, UCU Scotland

² <https://www.heraldscotland.com/news/17523137.scotland-would-be-biggest-loser-from-abolition-of-erasmus-scheme-after-brexite/>

³ https://ec.europa.eu/assets/eac/education/library/study/2014/erasmus-impact-summary_en.pdf

⁴ [http://www.parliament.scot/General%20Documents/University_and_College_Union_\(UCU\).pdf](http://www.parliament.scot/General%20Documents/University_and_College_Union_(UCU).pdf)

ANNEXE B**NUS SCOTLAND**

NUS Scotland represents around 500,000 students in Scotland through our member college and university students' associations. We work to promote, defend and extend the rights of students and to champion strong students' associations.

Since 2016 NUS has been campaigning to ensure that the final Brexit deal offers the best possible scenario for students and have been pushing for a People's Vote on any deal since 2018. We have been calling for the UK to remain a member of the Erasmus+ scheme both now and into the future, for a fair and accessible immigration system after Brexit, protection of vital funding, and a clear agreement on how the movement of people, goods and services will operate on the island of Ireland post-Brexit and safeguard the rights and protections in the Good Friday Agreement.

NUS Scotland welcomes the opportunity to give evidence to the Education & Skills Committee on the damage of a no-deal Brexit on students, and the education sector as a whole. NUS Presidents from across the UK have written to Prime Minister Boris Johnson to outline our concerns around the prorogation of the UK Parliament and the impact a no-deal Brexit, which we elaborate on in this briefing. This letter attached to this written submission.

A Fair and Accessible Immigration System

Students from EU member states are currently eligible to travel freely around the EU to study and work, whether for the duration or part of their course. If free movement ends following a no-deal Brexit, the UK would be shut out of this opportunity unless a new, frictionless immigration deal is reached.

What happens currently?

EU law dictates that if any student throughout the EU wants to study in a EU country that is not their home country, they must be entitled to the same rights as a student from that country. This means that UK students currently enjoy access to much more affordable higher education throughout Europe that they would not if classed as international students. Similarly, EU students have been entitled to home student status in the UK, and therefore have access to student finance to cover the cost of their tuition.

NUS Scotland welcomes the steps taken by the Scottish Government to ensure that EU citizens who study a Further or Higher education course in Scotland in the 2020/21 academic year will be charged the same tuition fees and get the same support as Scottish students for the duration of their course ⁽⁵⁾. NUS Scotland also welcomes the Scottish Government's commitment to provide financial support to Scottish students currently studying at EU universities, who may be forced to give up their studies as a result of Brexit ⁽⁶⁾.

⁵ <https://www.gov.scot/news/extension-of-free-tuition-for-eu-students/>

⁶ <https://www.gov.scot/news/students-returning-after-brexit/>

What could happen after a no deal Brexit?

EU students who do choose to study in the UK would have to apply for the European Temporary Leave to Remain system (Euro TLR) (7), which would only allow them to stay in the UK for a total of 36 months. This would result in those studying courses longer than three years, such as medics, linguists, PhD students and most undergraduate students in Scotland, having to apply for a Tier 4 visa in the middle of their studies at significant extra cost (8). There is also no guarantee in place that they would be assured of attaining this visa, leaving open the prospect of EU students studying in Scotland being forced out of the country before they have been able to finish their degrees.

The termination of free movement on the day of the UK's departure from the EU may also create problems for current EU students who are outside of the UK at the time. As their legal status would change overnight there is increased likelihood that these students would face difficulties in returning to the UK to complete their studies. Whilst recent reports have claimed that the government have U-turned on these proposals (9), as yet there has been no official confirmation that freedom of movement will continue from 1st November. What the exact legal situation will be on 1st November and the mechanisms for enabling EU residents of the UK to leave and return have not yet been explained by the Home Office. It remains the case that many different factors, such as workable practicalities, a legal challenge or political expediency, may mean a change of policy. Furthermore, the government has not yet articulated how it will differentiate between EU nationals that are residents in the UK before October 31st and eligible for settled or pre-settled status but have not yet applied and EU citizens that arrive in the UK after October 31st.

Impact on students

Within our student population, there are 21,605 EU nationals (8.7%) and 32,600 non-EU international students (13%) studying with us at all levels.¹⁰ UCAS data shows that in 2019 41,350 EU students applied to study in Scotland – down from 44,430 in 2016, the year of the EU Referendum.¹¹

NUS Scotland have significant concerns that, should the UK Government continue with their Euro TLR policy, this would act as a significant deterrent for EU students wishing to study in Scotland, potentially impacting further the decrease of EU students studying at our institutions.

Further, NUS Scotland remains concerned that Euro TLR could impact vulnerable EU students within our institutions – those impacted by bereavement, illness or

⁷ <https://commonslibrary.parliament.uk/home-affairs/immigration/post-brexit-eu-immigration-policy-in-the-event-of-a-no-deal/>

⁸ <https://www.gov.uk/tier-4-general-visa>

⁹ <https://www.theguardian.com/politics/2019/sep/01/government-to-scrap-plans-for-henry-viii-power-to-end-free-movement>

¹⁰ HESA Student Record (2017/18) Numbers shown in full person equivalent

¹¹ <https://www.ucas.com/file/213906/download?token=FRbZ-RnY>

mental health concerns during their studies – who may require further time to complete their course.

Erasmus+

Erasmus+ is a student exchange programme which offers opportunities for UK participants to study, work, volunteer, teach and train across Europe. It is available for students, apprentices, volunteers, academics and other professionals active in the education, training and youth sectors.

Government assurances in the event of a no deal Brexit

The UK Government has given certain assurances to students on Erasmus+ programmes, with the opportunity for organisations to make a claim against the 'HMG guarantee', if the UK leaves the EU without a deal (12). We believe that the UK Government needs to provide further information about how this programme of underwrites would work in practice.

Risks of a no deal

By abandoning Erasmus+, through leaving the EU without a deal, the UK economy would forego £390 million per year in export earnings that incoming Erasmus+ students' living expenses generate alone (13).

Membership of the EU is not a requirement for association to Erasmus+ and many countries outside the EU enjoy the benefits of being Programme and Partner countries, such as Norway, Serbia and Turkey (14). However, a no-deal Brexit would decrease the likelihood of the UK Government being able to successfully negotiate the UK's participation in the successor programmes to Erasmus+ and Horizon Europe, which are due to run from 2021-27 and exceed the current programmes in terms of funding.

Benefits of Erasmus+

Scotland benefits hugely from Erasmus+ membership. Since the start of the current Erasmus+ funding cycle in 2014, Scotland has benefited from €90.7 million of funding across 844 projects, benefitting 13,957 participants (15).

Erasmus+ has been proven to enhance participants' education attainment and broader skillset and is a driver of social mobility. As cited in evidence previously submitted by the British Council to the Culture, Tourism, Europe and External Relations Committee (16), Erasmus+ membership delivers a range of benefits for those who take part, including better job prospects, better standards in education and training, and opportunities for young people for disadvantaged backgrounds. NUS Scotland continues to call on the UK Government to ensure that the UK remains a programme country participating in Erasmus+ and any future equivalent, after Brexit.

¹² <https://www.gov.uk/guidance/register-to-claim-erasmus-and-esc-funding-from-the-government-guarantee#when-to-make-a-claim>

¹³ <https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2019/no-deal-briefing.pdf>

¹⁴ <https://www.erasmusplus.org.uk/participating-countries>

¹⁵ <https://www.erasmusplus.org.uk/results-and-statistics>

¹⁶ http://www.parliament.scot/S5_European/Meeting%20Papers/CTEER_meeting_papers_2018.01.11.pdf

Norther Ireland border

If the UK were to leave the EU without a withdrawal agreement the probability of a hard border between Northern Ireland and the Republic of Ireland would be greatly increased. Whilst the government has provided verbal assurances that it would not establish a hard border, this must be subject to a mutual agreement between the UK Government and the EU. Without a clear agreement on how the movement of people, goods and services will operate it is likely that a hard border would need to be established to control this. Overnight, infrastructure and personnel could be placed on the border to carry out inspections on customs or single market regulatory matters.

Risks of a hard border

We share concerns that any hard border between Northern Ireland and the Republic of Ireland would undermine the rights and safeguards guaranteed under the Good Friday Agreement. The National Union of Students is supporting the 'No! To No Deal' campaign (17), which is led by civic society groups opposed to a No Deal Brexit outcome.

A hard border would also create issues for student mobility cross-border on the island of Ireland. Given the special status of the relationship between Northern Ireland and the Republic of Ireland, students and others from elsewhere must be able to cross the border freely and travel around the island of Ireland.

European Social Fund

The EU's European Social Fund (ESF) invests in people, with a focus on improving employment and education opportunities across the EU. Between 2014 and 2020 the Scottish Government received €465 million from the ESF.

Government guarantees in the event of a no deal Brexit

In July 2018 the UK Government guaranteed it would underwrite all projects, including ESF projects, that would have been funded by the EU under the 2014-2020 programme period, if a no-deal Brexit occurs. This is a very positive step and provides some security for apprentices and other students that are reliant on this funding.

However, the ESF is not open to third-country participation and so the UK would not have access to the programme that will run from 2021-27. The current proposed budget for this is €101.2 billion, an increase from the previous programmes budget of €89.6 billion¹⁸. Without this funding it could lead to apprenticeship places being lost along with other funding support for students. It is critical that apprentices and apprenticeship places are protected if the company they are based at leaves the UK as a result of Brexit.

¹⁷ <http://www.no2nodeal.org/>

¹⁸ [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2018\)625154](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2018)625154)

Mutual recognition of qualifications

A no-deal Brexit would cause great uncertainty around the mutual recognition of qualifications. Once the UK has left the EU it will no longer be subject to the EU Directive 2005/36/EC (“the Directive”) covering the recognition of professional qualifications in the UK¹⁹.

If there was to be no recognition of qualifications, this could cause significant problems for UK nationals who wish to live, work and study in the EU and vice-versa for EU nationals. It would have negative ramifications for students who have completed FE and HE courses as their opportunities would be severely limited, it would make studying in the UK less appealing for EU nationals and could damage the economy.

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32005L0036>

ANNEX – LETTER FROM NATIONAL UNION OF STUDENTS PRESIDENTS TO PRIME MINISTER BORIS JOHNSON

The Rt Hon Boris Johnson MP
Prime Minister
10 Downing Street
Westminster
London
SW1A 2AA

10 September 2019

Dear Prime Minister,

Prorogation of Parliament and no-deal Brexit

We are writing regarding your decision to prorogue Parliament on 10th September 2019, with the Queen's Speech and the return of Parliament due to take place on 14th October 2019. While we understand that a Queen's speech would empower you to set out your own domestic agenda having taken office, we do not believe that it is necessary, nor that the prorogation of parliament should be this long at such a critical time. A five-week suspension of parliament would be a dangerous proposition for the United Kingdom as it would increase the likelihood of a no-deal Brexit.

A no-deal Brexit will have a catastrophic impact on our students, apprentices, colleges and universities. It would be a major threat to safeguarding peace in Northern Ireland with the likelihood of a hard border between NI and the Republic of Ireland, restricting the mobility of people, goods and services, greatly increased. Peace in Northern Ireland was hard won, and it simply must be protected and maintained.

The UK's membership of Erasmus+ and Horizon 2020 would come to an abrupt end in the event of a no-deal Brexit. Whilst assurances might have been given to students to ensure that those who are abroad when we leave without a deal will be able to continue their placement with the same terms and conditions, this will deny similar study abroad opportunities to a whole generation of young people. Over the 30 years of the Erasmus+ programme alone, more than 300,000 students from the UK have benefitted from a period of study or work abroad, this includes nearly 15,000 in 2014/15. It would also create further problems around widening participation for study abroad opportunities as the Erasmus+ scheme provides essential maintenance support for students wanting to undertake a period abroad, many of whom would not be able to without it.

NUS wants to ensure that there is a frictionless immigration system for students and apprentices after Brexit, which could be jeopardised by plans to end freedom of movement immediately following the UK's departure from the EU. Any decision to scrap the European Temporary Leave to Remain scheme, or to not allow students to enter the UK for 3 months before applying for the scheme would create untold disruption for international students who contribute so much to this country. Changing the legal status of individuals overnight is not only unjust but unwise. Furthermore, any Euro LTR scheme must be compatible with realities of study in the UK. This would

result in those studying courses longer than three years, such as medics, linguists, PhD students and most undergraduates students in Scotland, having to apply for a Tier 4 visa in the middle of their studies at significant extra cost. There is also no guarantee in place that they would be assured of attaining this visa, leaving open the prospect of EU students being forced out of the country before they have been able to finish their degrees. We need you to guarantee the rights of our EU students and apprentices post-Brexit.

Beyond these material difficulties of a no-deal Brexit, the move to close Parliament speaks to a wider point in our democracy. Parliament must be given its say during the negotiation process, as a democratically elected institution that represents the views of the public. Throughout the Brexit process there has been a lack of consultation with the devolved administrations. While your government is now taking a dogmatic approach to Brexit regardless of the views of MPs, elected representatives in Wales, Scotland and Northern Ireland have been completely ignored for some time. This problematic Westminster-centric form of democracy cannot be allowed to continue. Before any final decision is made on the Brexit process, be that deal or no deal, there must be a fresh vote to ensure that this is truly the democratic will of the people.

We urge you to rescind the prorogation of Parliament and avert a no-deal Brexit for the benefit not only of students but the whole of the UK.

Yours sincerely,

Zamzam Ibrahim, President, National Union of Students

Liam McCabe, President, National Union of Students Scotland

Rob Simkins, President, National Union of Students Wales/Undeb Cenedlaethol y Myfyrwyr Cymru

Robert Murtagh, President, National Union of Students-Union of Students in Ireland

cc Rt Hon Gavin Williamson, Secretary of State for Education, Rt Hon Stephen Barclay MP, Secretary of State for Exiting the European Union

Universities Scotland

The impact on higher education of a negotiated and no deal exit from the EU. Summary

- A no deal Brexit will be bad for Scotland's universities. 100% of responding Scottish universities said that they were very or extremely concerned about the negative impact a no deal Brexit will have on their institution.
- In the event of a negotiated exit, our priority would be to associate with many of the existing EU programmes and schemes such as Erasmus+ and Framework Programme 9, as they are well established, proven effective and support and encourage collaboration. If this is not an option, there may be other opportunities but the delay and lack of detail forthcoming from the UK Government is concerning.
- We welcome the UK Government's announcement that there will be a return to a two-year post study work visa for international students. This is a positive welcome policy development and we felt it was important to acknowledge it in this brief as it is highly relevant to the UK's post-Brexit immigration system. We thank the Committee, past and present members and Conveners, for its support in making the evidence-based case to support this change. However, a two-year post study work visa, which will presumably also apply to EU nationals after the UK's exit, falls far short of the freedoms currently enjoyed by EU nationals to stay and work in Scotland indefinitely.

The UK's exit from the European Union has been a costly and highly destabilising experience for Scotland's university sector. This is not a judgement on the outcome of the 2016 referendum, it is a judgement on the exit process; the lack of clarity and lack of reliable information made available to those individuals and organisations directly affected – all major obstacles to universities' ability to manage risk and manage their business environment - and what has recently felt like the very realistic and alarming prospect of a no-deal exit. A no deal exit from the EU would be bad for students, staff, for research and innovation and for our universities as a whole. For a sector, the success of which will always be dependent on the mobility of talent and the free exchange of ideas, the inconsistent and sometimes hostile narrative that UK politics has communicated – intentionally or otherwise - to the rest of the world over the last three years have been highly damaging to the UK's place in the world.

This written statement is structured in three parts:

1. The Brexit priorities of the Scottish higher education sector (in the event of a negotiated exit).
2. The immediate consequences of a no deal Brexit for higher education.
3. The preparations universities have been taking in advance of a no deal exit.

1. The Brexit priorities of the Scottish higher education sector

Clarification on the fee status of EU undergraduate students studying in Scotland

- The Scottish Government has given welcome reassurances on the fee status of EU students up to 2020/21 (which will continue to be funded in full) but we have no certainty on the fee status for students starting 2021/22).

- There are 14,060 EU students in Scotland studying at undergraduate level in 2017/18, as funded by the Scottish Government. They are bright, motivated and bring a welcome diversity to the learning experience on offer in our universities.
- It is not yet clear what their fee-status will be post-Brexit nor is it clear what will happen to the resource that currently supports the sustainability of courses and institutions, if the fee status of EU undergraduates is changed and is no longer funded by the Scottish Government. That could be a disappearance of up to £90m of higher education funding.²⁰ That would be catastrophic for universities.

A comprehensive overall of immigration policy post-Brexit that allows UK universities to compete for staff talent

- The UK's exit from the EU necessitates a complete review of the migration system so that the UK is open to talent from across the world. So far, the announcements on the Post Study Work visa and Exceptional Talent visa (Tier 1) are very encouraging. We want to similar moves in regards to the Tier 2 route covering staff and universities as employers.
- The UK Government is currently at the white paper stage on a bill to determine immigration policy post-Brexit. We feel it is hugely important that the salary threshold in that bill is set at no higher than £21,000 to recognise that or sector does not have the same relationship between salary and skills / qualifications that is seen in other sectors. We need to see measures in the bill to support universities to recruit PhD staff, measures that protect the pipeline of study to work, and the ability to recruit technicians.

Association to a Framework Programme 9 (the next EU research and innovation programme and successor to Horizon 2020) focused on excellence.

- International collaboration is essential to the success of research and innovation in the UK. Currently, Horizon 2020 provides a ready-made platform for collaborating with key European partners, including six of the UK's top 10 research partners. Participation in Horizon 2020 allows access to a multi-national pooled financial resource that supports – and incentivises – collaboration.

A Shared Prosperity Fund that prioritises place.

- A new Shared Prosperity Fund could create opportunities for higher education post-Brexit if it is focused around place, social cohesion and growth. However, at present the scheme is at least six months behind schedule with no detail on plans forthcoming from the UK Government.
- European Structural and Investment Funds (ESIF) have been key to regional capacity building and innovation and skills development in a number of universities. We estimate that Scottish universities received £2.915 million directly in 2017-18 through ESIF1 with the University of Highlands and Islands a major recipient (attracting 35% of all ESIF funding that went to Scottish universities in 2017-18 with major benefits to the region).
- The devolved nations have to be a key part of the SPF's development and we would like for higher education to play an important role in shaping the Shared Prosperity Fund given the role a university has as an 'anchor' institution, rooted in the local community with a global reach.

²⁰ The variance in cost implication depends on one or two variables including the future fee status of students from the Rep of Ireland.

2. Immediate consequences of a no deal Brexit for higher education

In the event of a no deal exit, our priorities (as listed above) may not be attainable. Even if the UK does decide to be part of Horizon Europe and Erasmus+ after a no-deal exit, there will be a period during which the UK will be outside these programmes, with the damage that will do to opportunities for students and staff and to our European partnerships for research.

There would be considerable uncertainty amongst prospective EU students about their future fee/loan status.

- The Scottish Government has confirmed the fee status of EU undergraduates starting degrees in 2020/21 and the loan status for EU students starting in 2020/21 has been confirmed for the duration of their degree. But a no deal Brexit would create uncertainty around the loan status of these students starting in 2021/22, which is an important part of the financial mix for many students.
- A no deal exit would also raise questions about the fee free status of EU undergraduates starting university in Scotland in 2020/21, as this would confer a preferential fee regime relative to rest of UK and international students without the UK's membership of the EU and therefore European law as a basis for this.

European Temporary Leave to Remain (ETLr).

- EU students entering the UK would be subject to the ETLr system only allowing them to stay in the UK for up to three years. This is expected to affect **96.4%** of all EU students on undergraduate courses in Scotland's universities²¹ for whom the four year undergraduate degree is standard. It would also affect PhD students.
- Students would need to convert to the Tier 4 visa for international students in their penultimate year of study and at a cost of £475 from within the UK based on current system and prices.
- This issue has been raised extensively in the media, Holyrood and Westminster. We particularly welcome the Committee's letter on this issue to the Home Secretary, the Rt Hon Priti Patel MP, dated 21 August.

The end of Erasmus+?

- Over 2,500 people at Scotland's universities had the experience of outward mobility for study or work through Erasmus in 2016/17.²²
- Whilst there is a financial underwrite in place until 2020, there is no clarity on what size or shape of successor scheme might be put in place in the event of a no deal Brexit, what level of priority the UK Government attaches to this nor whether an successor scheme would be UK wide.
- Our concerns are that a successor scheme would be inferior to Erasmus+ if it did not also include staff mobility or international collaborative projects as the current scheme does. The EU is set to double the funds available for Erasmus+ to €30 billion for the period 2021/27.

UK institutions would become ineligible to compete for the globally-prestigious research funding from the European Research Council (ERC) and Marie Skłodowska Curie Actions (MSCA).

²¹ HESA Student Record 2017/18

²² <https://www.erasmusplus.org.uk/statistics>

- Research funding from EU Government bodies was worth £95.8 million to Scotland's universities in 2017/18.²³

Association to Horizon 2020 could be in jeopardy.

- There is a real risk that a no-deal exit could jeopardise the UK's ability to associate with the next Horizon programme which run from 2021–27. Lead-in times for developing research partnerships across borders can be lengthy, but UK researchers remain in the dark about whether they will be eligible to lead or participate in key projects.
- We have already seen a sharp drop in UK universities leading projects through Horizon 2020 because of uncertainty. One Scottish HEI, responding to the survey (in section 3) commented on the fact there was already "greater anxiety" coming from EU partners in regards to research funding proposals where they, the UK-based university, was the lead or coordinator.

There would be great uncertainty around mutual recognition of professional qualifications (MRPQ).

- This could potentially disincentivise individuals from around the world studying subjects covered by the current MRPQ Directive (including architecture, veterinary science) from coming to the UK.

3. Universities have had to make extensive preparations for the prospect of a no deal Brexit

Universities UK surveyed all member institutions in late August/September to gauge the extent of preparations universities have been taking in the event of a no deal Brexit. Ten Scottish universities had replied by the time of writing and the data below is based on those ten replies.²⁴ The ten responses helpfully reflect the sector's diversity and include the ancient, modern, post-92 and small, specialist institutions.

Headline findings

- Of the respondents, 100% of universities said they were very or extremely concerned that a no deal Brexit will have a negative impact on their institution in spite of the fact that 70% said they felt "very prepared" for a no deal Brexit.
- 50% of respondents said they had already lost existing or potential staff to overseas universities that they could directly attribute to the prospect of a no deal Brexit. 40% said they had experienced fluctuations in collaboration amongst EU partners and 30% said they had already experienced fluctuations in demand from EU students. 10% said they had scaled back their investment in research or other projects in order to fund no deal preparations. This question did not ask universities to forecast the impact of Brexit, it asked what impact they have already experienced. This paints a frightening picture of the potential impact should a no deal Brexit become a reality.

²³ HESA Finance Record 2017/18

²⁴ However, additional responses were still coming in after the deadline so we will provide an update on this data if necessary.

- Looking ahead to the prospect of a no deal Brexit, institutions said that the impact of a no deal Brexit is likely to impact most significantly on student recruitment (40% cited this) and access to research programmes and funding (30%). Many said it was difficult to isolate just one priority concern, as asked by the survey question.
- The survey asked UK universities where they felt gaps remained in the advice and guidance on a no deal Brexit as supplied by UK and/or devolved administrations. Amongst the Scottish responses to this question, the most commonly cited answers were (in no particular order):
 - recent inconsistencies in immigration and border control under a no deal (with policies on the cessation of Freedom of Movement in the event of a no deal announced and then reversed within weeks of each other);
 - European Temporary Leave to Remain;
 - a lack of practical detail on how the underwrites for European Research Council and Marie Skłodowska-Curie Actions will actually work; and,
 - the lack of clarity from the Scottish Government on the fee status of EU undergraduates in Scotland's universities post 2021/22. This is a decision within the powers of the Scottish Government and affects over 14,000 undergraduate places that are currently held by EU students, worth as much as £90 million of the sector's funding²⁵ (approximately 10% of the Scottish Government's Teaching Grant). It would be catastrophic for universities and many strategic subjects if this funding were to be removed from higher education. Not having certainty on this is a major obstacle to institutions' ability to plan and manage the impact of Brexit.

Preparations relating to staff and students

- Only a few institutions have a sense of the scale of applications for settled status amongst their EU national staff and estimate this to be in the range of 25-30%. This seems to broadly correlate with the numbers reported at UK level as applying/receiving settled status. In total, there were 6,500 EU nationals working in Scotland's universities in 2017/18, which equated to 13.4% of the staff population.
- 80% of respondents said they had communicated to staff and students about likely changes to immigration policy. 60% of respondents had encouraged staff to apply for settled status. Others stated they had tried to lead a supportive rather than prescriptive approach to this with their staff.
- 100% of respondents had evaluated internal risk to workforce planning and student recruitment based on EU staff and student numbers. 100% had identified where staff or students are due to join the university after 31 October and 100% had considered communications to them to encourage them to move their arrival date to before the planned exit date.
- 50% of respondents have ensured that UK students aboard and/or incoming EU students are covered by institutional insurance policies in the event that European Health Insurance Cards (EHIC) become invalid under a no deal exit.
- In relation to student mobility, 80% of respondents have assessed which mobility programmes are covered by the EU regulation for Erasmus+ and underwritten by the UK Government guarantee. There's been a high level of administrative and communications work needed: universities still need to comply with Competition

²⁵ The £90 million figure includes funding via the SFC and the fee element of undergraduate higher education which institutions receive via SAAS.

and Markets Authority consumer law guidance to ensure accurate information is made available to students about the outward mobility opportunities available in degree programmes – even whilst there is no certainty from Government. 80% of institutions said they have already done this. 60% of respondents have communicated to students due to be on placement at the possible time of a no deal Brexit to reassure them they'll be unaffected and 50% of respondents had set aside funding to cover outward mobility should institutions lose access to Erasmus+.

Preparations relating to research

- 80% of institutions said they had uploaded details of Horizon 2020 research and innovation grants to the UKRI portal, 70% have checked that their Horizon 2020 projects fulfil the minimum criteria for underwrite, as set by the UK Government.
- 70% of institutions have been actively communicating the underwrite guarantee to EU partners, although one institution did report there was a low level of awareness about this within the EU and UK researchers were often the ones to highlight this.

Other preparations

- 100% have given consideration to a wide range of issues including staff shortages, risk of workers' rights, increased costs, increased tariffs and taxes, as a result of a no-deal Brexit.
- 100% of respondents had reviewed contracts and assessed supply chains for possible bottle-necks of supplies. 90% had already had conversations with their supply chains.
- 40% of institutions have thought about extending the amount and/or timescales of hardship funds available to students.
- 50% have considered stockpiling which can relate to everything from food supplies in residences to pharmaceutical and medical supplies. Whilst most are confident in their suppliers some cited fears of supply and cost post-Brexit (some had invested in IT equipment now to avoid the risk of price hikes later). Others said it was not possible to stockpile perishable items.

ENDS

Colleges Scotland's Submission to the Education and Skills Committee on the Impact of Brexit

1. Introduction

Colleges Scotland is the collective voice for the college sector in Scotland, representing its interests and ensuring that colleges are at the heart of a world class education sector that is recognised, valued and available to all. Colleges Scotland, as the membership body, represents all 26 colleges in Scotland, which deliver both further education and around 26% of the provision of all higher education in Scotland. Some 42% of all full-time college activity is in higher education with 74% of higher education entrants on HNC or HND programmes.

Colleges play a key role in widening access to higher education for some of our disadvantaged students, offering a stepping-stone to gain a higher qualification. The Sutton Trust report¹ identified that 90% of those learners from the most social deprived background that went to university, did so through colleges.

2. Colleges Play a Vital Role

The college sector plays a vital role in providing support to a thriving and growing economy. A dynamic, collaborative, and innovative college sector delivers high-quality lifelong learning, widens access to education, and promotes social inclusion that enables people to thrive in life, in their communities and in work. Colleges:

- are a key partner in delivering inclusive and sustainable economic growth by providing the right education, apprenticeships and skills to tackle poverty and equip employers with a flexible and innovative workforce
- work within communities and tailor provision to meet local, regional and national skills requirements
- help people of all ages and backgrounds to obtain technical, professional and vocational education and skills to reach their potential and progress into further study, training or employment
- welcome students and staff from across the world with 189 nationalities represented in colleges which provides economic and cultural benefits for Scotland
- support businesses including SMEs to fulfil their role in increasing productivity and boosting Scotland's international competitiveness
- are focused on skills and process innovation i.e. delivery and design, industry engagement, networking, bespoke and transitional training, transfer of skills and knowledge exchange
- encourage and support an innovative economy, facilitating knowledge transfer of skills for innovation within the economy, providing business incubator space and ensuring access to resources to aid the start-up of venture
- will generate additional value worth £20 billion for the Scottish economy in the long term, representing an additional £55,000 boost to productivity in the Scottish economy per graduate over their working lives².

¹ Blackburn, L. H., Kadar-Satat, G., Riddell, S., & Weedon, E. (2016). Access in Scotland: Access to Higher Education for People from Less Advantaged Backgrounds in Scotland. *Sutton Trust*.

² <https://collegesscotland.ac.uk/Policy/the-value-of-college-graduates-to-the-scottish-economy.html>

3. Key Issues

At the time of writing, there remains considerable uncertainty about the United Kingdom's departure from the European Union (EU). Whether we leave with or without a deal, there will be consequences for colleges. These were explored in the paper published by the Scottish Funding Council (SFC) on 8 December 2018 entitled, *EU Exit and Scottish colleges and universities*³ and a further report produced by the College Brexit Forum entitled "EU Exit – Impact on Colleges".

Demographic trends, combined with a continuing move towards greater automation in a range of lower skilled areas of the economy, illustrates the significant challenges that the college sector in Scotland faces in course delivery. The impact of exiting the EU will provide further challenge over the coming years. Colleges need a system which enables them to act nimbly in responding to demand from learners and industry including retraining and upskilling the workforce which will increase productivity and enhance inclusive economic growth. Alongside this, a more flexible student support offer, which funds those who wish to retrain or upskill in key areas, could help stimulate student demand.

There are a number of potential direct and indirect impacts on the college sector in Scotland of leaving the EU. These are:

Direct impacts:

- Loss of funding programmes, such as ESF and Interreg.
- Loss of EU students and staff.
- Loss of Erasmus+, either entirely or to be renegotiated under different terms.

Indirect impacts:

- Loss of indirect funds i.e. third-party EU funding, for example via Skills Development Scotland or local authorities.
- Change of status of EU students means that there is the potential for increased recruitment of Scottish domiciled higher education students by universities. This could exacerbate loss of higher education students from colleges due to continuation of Commission on Widening Access activity providing students from SIMD20 direct entry into higher education institutions.
- Emerging skills gaps as skilled EU nationals leave the UK due to the potential loss of freedom of movement, the devaluation of the pound, and changes to the immigration/visa system.
- Increased likelihood of higher unemployment rates and economic downturn.
- Supply chain breakdown or cost increase – facilities companies, logistics providers, maintenance contracts etc.
- Loss of international curriculum development opportunities.
- Immigration impact on international activity.
- Loss of commercial contracts due to economic uncertainty for businesses which the college works with.

Students in Colleges

Students have benefitted from EU funding which ensures places are available, in state-of-the-art college campuses, with the opportunity to undertake study or placement within Europe either through the Erasmus+ scheme or other mechanisms. The system, by which EU students are entitled to access education with the equivalent standing to Scottish domiciled students, has ensured college campuses are diverse and students experience a range of cultural and educational perspectives to their own thus enhancing their academic, social and cultural knowledge. In 2016-17, there were around 16,000 EU students in colleges of which 19% were studying at higher education level. It is difficult to quantify the projected loss of EU national students post- EU exit in the college sector. The

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http://www.sfc.ac.uk/web/FILES/corporatepublications_sfccp012018/SFCCP012018_EU_Exit_and_Scottish_colleges_and_universities.pdf

loss of small number of EU national students may result in a risk of certain college courses becoming unsuitable in their current form if colleges are unable to adapt their delivery methods. The loss of substantial numbers of EU nationals is likely to aggravate the overall demographic shift and further exacerbate the student recruitment challenges.

Impact of University Places

Currently EU Nationals attract the same tuition fee and teaching grant support as Scottish domiciled students in higher education. It is reasonable to conclude that free tuition for EU students in Scottish universities has enhanced the attractiveness of Scotland as a place to study. If, following the UK's exit from the EU, these students are required to pay tuition fees at the international student rate, Scotland will almost certainly see a decline in the number of EU students at undergraduate level in higher education institutions. Assuming that levels of university activity continue to be funded at the same level, but universities alter their entrance criteria with a view to recruiting more from the domestic student population, there is likely to be a significant secondary impact. This is expected to result in demand for college higher education-level courses declining. This is a pattern which is already evidenced anecdotally.

Widening Access

Colleges play a key role in widening access to higher education for some of our disadvantaged students, offering a stepping-stone to gain a higher qualification. The Sutton Trust report⁴ identified that 90% of those learners from the most social deprived background that went to university, did so through colleges. Colleges draw their students far more equally from all areas, including the most deprived, meaning colleges are a key tool for improving social mobility. There are a number of reasons which help explain the success of these colleges in attracting students from these areas. These include the fact that many colleges are located close to areas of social and economic deprivation, the range of provision available in the colleges, the emphasis on widening access and social inclusion in many colleges, and the associated cultural ethos of the colleges. If the loss of EU national and domestic students results in a risk of certain college courses becoming unsuitable in their current form, this could impact on colleges' success in supporting widening access.

Staff in Colleges

Colleges and students have benefitted from freedom of movement as a result of membership of the EU. Participation in EU Framework Programmes has enriched the talent pool for staff, where ease of travel has afforded opportunities for UK staff. Consideration should be given to providing new and additional safeguards to protect a withdrawal of EU talent from the UK, including a similar exemption for other skilled educators and highly skilled staff. As of 31 March 2017, there were 11,064 people employed in colleges in Scotland, 3% of whom identified as non-UK EU nationals⁵.

Cultural Exchange Programmes

The opportunity for student exchange within Europe enriches the learning experience, enhances employability and promotes greater understanding and respect of different people and cultures. Colleges Scotland considers programmes such as Erasmus+ to be extremely beneficial and it would be a considerable loss if some equivalent arrangements are not introduced as the UK leaves the EU. Scotland's colleges serve learners from the most deprived circumstances, for whom such provision made available through the education setting may be their only opportunity for travel outside of the UK. The SFC's noted in its *EU Exit and Scottish Colleges and Universities*⁶ report published in December 2018 that in 2016-17 1,600 students from colleges and universities went abroad on Erasmus+ programmes and that the number of Scottish students seeking to participate

⁴ Blackburn, L. H., Kadar-Satat, G., Riddell, S., & Weedon, E. (2016). Access in Scotland: Access to Higher Education for People from Less Advantaged Backgrounds in Scotland. *Sutton Trust*.

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http://www.sfc.ac.uk/web/FILES/corporatepublications_sfccp012018/SFCCP012018_EU_Exit_and_Scottish_colleges_and_universities.pdf

in the programme has increase by 50% over the last seven years.

Emerging and Worsening Skills Gaps

A further challenge which the UK's exit from the EU poses to colleges as a key provider in the skills training system will be the potential loss of skilled and unskilled EU nationals from the existing workforce. According to a SPICe analysis of 2015 ONS data '*EU Nationals Living in Scotland*'⁷, across the UK, indications are that sectors most likely at risk include (but are not limited to) service sectors: hospitality and tourism, public administration, finance, health and social care and retail, as well as construction, agriculture and manufacturing. Almost a third of EU nationals in employment in Scotland in 2015 (33,000) were working in the distribution, hotels and restaurant sector. The Scottish economy is heavily reliant on these areas, particularly in remote and rural locations as well as in urban areas. Replacing experienced and trained staff from a range of critical industries from a contracted pool of talent will present a unique test of the college sector's ability to adapt and flex its offer in order to continue meeting the needs of individuals, communities and businesses throughout and beyond the transition process.

The table below shows the number of students studying in key sectors in 2017/18:

Health Care/Medicine/Health and Safety	52,151
Engineering	29,858
Information Technology and Information	23,141
Business/Management/Office Studies	17,851
Construction and Property (Built Environment)	16,654
Catering/Food/Leisure Services/Tourism	13,810
Agriculture/Horticulture/Animal Care	6,228
Manufacturing/Production Work	1,380

Source: SFC Infact

4. Summary

Colleges have a significant, positive effect on learners, businesses, communities, and the economy, and this is enhanced by both inward investment from abroad and the presence of international students and staff. Scotland's colleges will generate an estimated additional value worth £20 billion for the Scottish economy in the long term⁸.

Colleges are willing to be flexible and adapt to meet arising challenges, and they are well placed to offer solutions to some of the challenges that Brexit will bring.

Colleges Scotland
September 2019

⁷ http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-86_EU_nationals_living_in_Scotland.pdf

⁸ Fraser of Allander Institute, *The value of college graduates to the Scottish economy*, 2017.