

**CULTURE, TOURISM, EUROPE &
EXTERNAL RELATIONS COMMITTEE**
#SPICeBrexitWeekly

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BREXIT UPDATE

SPICe weekly update



**ARTICLE 50:
TIMELINE**

**WHAT MIGHT THE
ARTICLE 50 LETTER SAY?**

**PRIME MINISTER
IN SCOTLAND**

SPICe The Information Centre
An t-Ionad Fiosrachaidh

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Contents

Michel Barnier speaks	1
BBC Interview with Jean-Claude Juncker	4
Article 50 Timeline	5
What might the Article 50 letter say?	7
Prime Minister in Scotland	7
Institute for Government – Legislating Brexit	9
Brexit in Parliament	10
Scottish Government announces free tuition for EU nationals	11

About this paper

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union which will formally begin once the Prime Minister has triggered Article 50 on 29 March.

Ahead of the UK Government's triggering of Article 50, the updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This week's update focuses on a keynote speech by the European Commissioner's Chief Negotiator for the Preparation and Conduct of the Negotiations with the United Kingdom and a timeline for the Article 50 process.

Michel Barnier speaks

On 22 March, Michel Barnier, the European Commissioner's Chief Negotiator for the Preparation and Conduct of the Negotiations with the United Kingdom addressed the plenary session of the European Committee of the Regions. He [spoke about](#) the upcoming Brexit process specifically warning about the risks for both the EU and the UK of no deal being reached on the terms of the UK's departure from the EU:

"Brexit will have significant human, economic, financial, legal and political consequences.

But the consequences of a no deal situation would be even more significant – for everyone:

- *More than four million citizens – UK citizens in the EU and EU citizens in the UK – confronted with extreme uncertainty concerning their rights and their future;*
- *Supply problems in the United Kingdom, disrupting value chains;*
- *The reintroduction of burdensome customs checks, inevitably slowing down trade and lengthening lorry queues in Dover;*
- *Serious disruption in air traffic to and from the United Kingdom;*
- *Suspension of the distribution of nuclear material to the United Kingdom, as it finds itself outside EURATOM overnight. I can multiply the examples.*

The United Kingdom would be seriously affected by such a situation: two thirds of its trade is currently enabled – and protected – by the Single Market and the free-trade agreements of the European Union with more than 60 partner countries.

The Union, our Union, will also be affected, even if we continue to benefit from the Single Market at 27 and from our free-trade agreements.

The no-deal scenario is not our scenario.

We want a deal. We want to succeed by reaching a deal.

Succeed with the British, not against them."

Stressing the importance of continued unity amongst the EU27 Member States, Barnier then set out the conditions for reaching an agreement with the UK. Stressing the need to end the uncertainty for EU citizens in the UK and UK citizens in other EU countries, Barnier said:

“This uncertainty is first and foremost that of the four and a half million citizens:

- The Polish students who have access to British universities under the same conditions as British students;*
- The British pensioners who are resident in Spain and who benefit from healthcare under the same conditions as Spanish pensioners*
- The Romanian nurses and doctors who contribute to the quality of healthcare in the United Kingdom;*
- Or the engineers from Italy, Germany or elsewhere, who chose to work in the United Kingdom, just like the thousands of British people who have made the same choice to work in Berlin, Rome or Vienna.*

We hear their doubts. We understand their worry, and we must act effectively in response.

Guaranteeing their rights as European citizens, in the long term, will be our absolute priority from the very start of the negotiations.

Our watchword will be: "Citizens first!" And I welcome the College's decision this morning to register the two Citizen's Initiatives.

The issues at play are complex, whether they are residency rights, access to the labour market, pension or social security rights, or access to education.

We will work methodically on each of these points. We will not leave any detail untouched, and we are already working with all Member States on this.

It will take time, several months certainly. We must do serious legal work on this with the United Kingdom.

But we can and we should agree – as soon as possible – on the principles of continuity, reciprocity and non-discrimination so as not to leave these citizens in a situation of uncertainty.”

The Commission's next negotiating priority highlighted by Barnier was agreement of the UK honouring its financial commitments to the EU. Barnier said that the EU's multi-annual budget was agreed by the 28 Member States and the UK should now honour its commitments:

“Each country must honour its commitments to each other. Let me be clear: when a country leaves the Union, there is no punishment. There is no price to pay to leave. But we must settle the accounts. We will not ask the British to pay a single Euro for something they have not agreed to as a member.

In the same way, the 27 will also honour their commitments concerning the United Kingdom, its citizens, companies and regions. This is the mutually responsible way to act.”

A final priority outlined by Barnier was the situation in Ireland. Barnier committed to being “particularly attentive, in these negotiations, to the consequences of the UK's decision to leave the Customs Union, and to anything that may, in one way or another, weaken dialogue and peace”.

In terms of sequencing of the negotiations, Barnier outlined that it would initially be a priority to agree the principles of the UK's withdrawal from the EU before then beginning work on the negotiations of the future relationship between the EU and the UK. In terms of thinking about what the future relationship might look like, Barnier said:

“It is not too early to start outlining the contours of our new partnership today, even if it is too early to start negotiating.

There will be a free-trade agreement at the centre of this partnership, which we will negotiate with the United Kingdom in due course.

This free-trade agreement cannot be equivalent to what exists today. And we should all prepare ourselves for that situation.

The United Kingdom chooses to leave the Single Market and the Customs Union. It will be a third country in two years from now.

By making this choice, the United Kingdom will naturally find itself in a less favourable situation than that of a Member State.

It will not be possible to cherry-pick and be a participant in parts of the Single Market.

This free-trade agreement will be unprecedented in European history.

Until now, all trade agreements with the European Union – which cover more than 60 countries, for example with South Korea and recently with Canada – are all signed within the framework of regulatory convergence.

Here we are in a different situation: at the outset of the negotiations, our standards and rules are perfectly integrated between the UK and the EU27.

What we have here is not regulatory convergence but the risk, or the probability of regulatory divergence, which could harm the Single Market.

We will all be wary that this regulatory divergence does not turn into regulatory dumping: the governments, the European Parliament, me as negotiator, the national Parliaments and civil society.

If it were otherwise, these negotiations would provoke misunderstandings and opposition to the free-trade agreement itself.

I would remind you that this agreement, which would undoubtedly be a mixed agreement, must, in any case, be ratified by all Member States and their national Parliaments.

To avoid this risk, we must prevent regulatory dumping. Guaranteeing and enforcing these common rules and a level playing field will be crucial.

We agree with Theresa May when she recently called for a "bold and ambitious free-trade agreement."

Yes to the ambition! But this ambition also applies to social, fiscal, environmental and consumer protection standards, which European citizens rightly support."

Finally, Barnier suggested that thought would be given during the negotiations to some transitional arrangements, whilst not speculating on what those transitional arrangements might be, he did state that any arrangements would need to be "supervised by European law and its associated legal system".

BBC Interview with Jean-Claude Juncker

On 24 March, the BBC ran an [interview](#) with the European Commission President Jean-Claude Juncker.

In the interview, the Commission President makes clear that the EU27 will negotiate in a fair way with the UK but will not be "naïve". Echoing a number of points made by Michel Barnier in his speech to the Committee of the Regions two days earlier, Juncker was clear that the UK's departure shouldn't lead to a domino effect with other countries choosing to leave the EU.

On the financial settlement, Juncker was clear that the UK has financial commitments it must settle:

"You cannot pretend you were never a member of the union".

"The British government and parliament took on certain commitments as EU members and they must be honoured. This isn't a punishment or sanctions against the UK."

Whilst not prepared to give a precise financial figure for the settlement, Juncker was clear that the fate of over 4.5 million citizens both in the UK and across the EU was not an issue for negotiation and their rights should be respected:

"This is not about bargaining. This is about respecting human dignity."

Article 50 Timeline

Dr Simon Usherwood from the University of Surrey has produced a [timeline for the Article 50 negotiations](#) along with a [blog](#) on what to look out for during the negotiations which whilst scheduled to last for two years are likely to need to take much less time due to “faffing at the start and the ratifications at the end”. Dr Usherwood’s timeline and blog highlight three upcoming events of interest:

The first is the UK’s letter of notification, due on 29 March which according to Dr Usherwood is:

“The point that the government makes its declaration, it is likely to set out its broad aims for the process. However, given that it has had ample opportunity before now to do this, we might expect that this will be not much different from a re-statement of the White Paper.”

The second is the European Parliament’s statement of positions, due in late April. According to Dr Usherwood:

“This is the wildcard in the pack.

Article 50 requires that the EP gives its approval to the final agreement, which the institution has read as meaning it should play a part in the negotiations: not by accident is Guy Verhofstadt ‘chief negotiator’. The EU27 have resisted this, seeing it as the thin end of a very big wedge, given all the other negotiations with third parties either in train or planned.

Thus the EP’s statement is likely to matter as much for its process demands as any substantive points. In the hardest form, that might mean declaring a refusal to approve any deal that doesn’t include Verhofstadt in the negotiating room. The risk is, clearly, that in a process that is already looking very stretched and at danger of failure, is the EP willing to risk pushing things over the edge?”

The third – and most important – is the European Council’s guideline on negotiation, which should be agreed at the 29 April meeting.

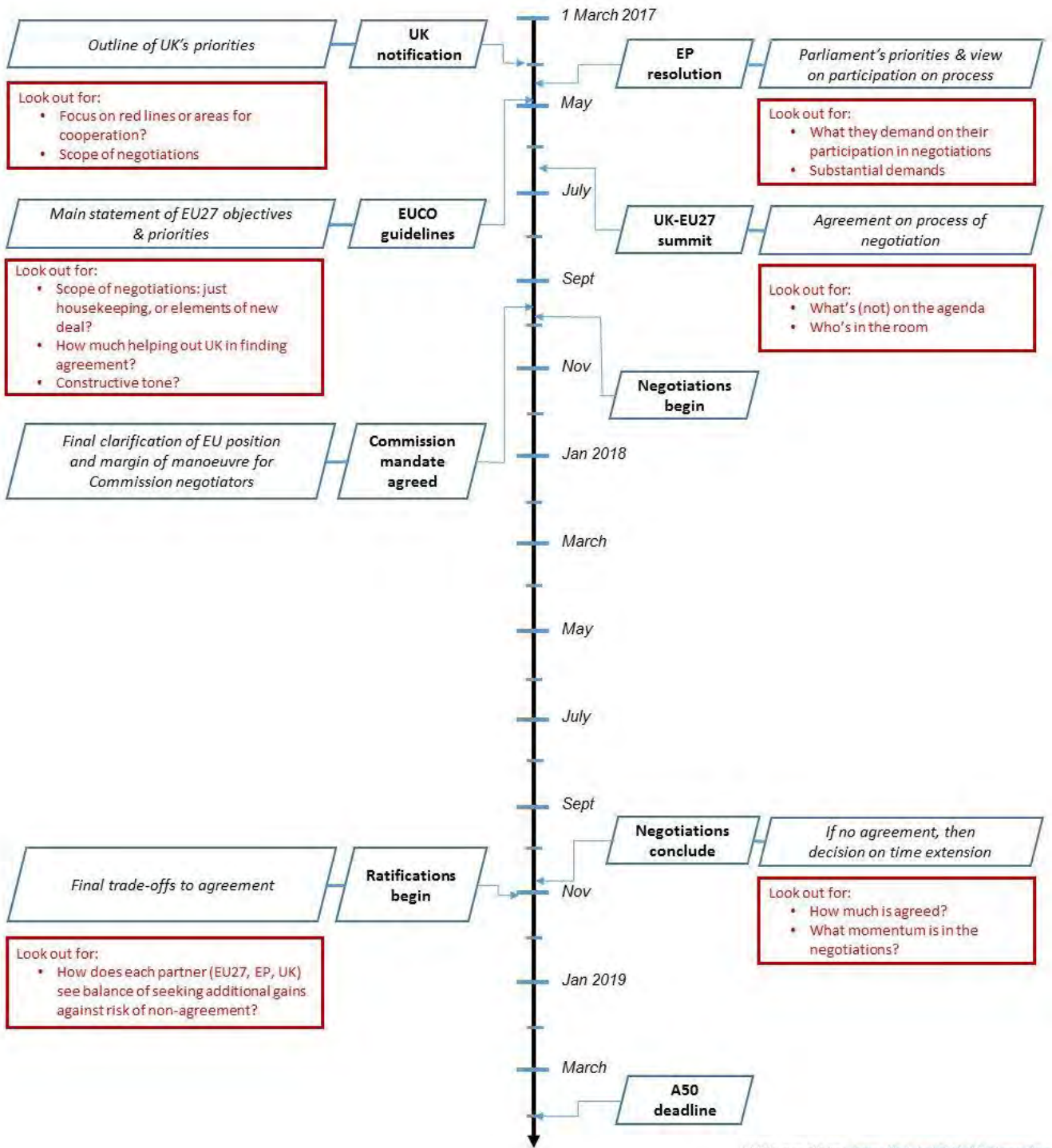
According to Dr Usherwood, the European Council guidelines should:

“set out a process for the negotiations and indicate the broad parameters of the Commission’s negotiating mandate. This latter will still need to be agreed in the month or so that follows, but this is touchstone, despite Michel Barnier’s efforts to set out elements at this stage.”

The timeline is reproduced on the next page for information.

What we'll know when in Article 50 negotiations

Dr Simon Usherwood



With credit to: <http://bit.ly/lfGA50Timeline>
 Also check out: <http://bit.ly/A50timeline>

The Institute for Government has also produced a [timeline](#) showing that in essence the negotiations will probably be confined to a twelve month period due to the EU's negotiating procedures and elections in France and Germany.

What might the Article 50 letter say?

Writing for the Institute of Government blog, Programme Director [Jill Rutter outlines](#) the different ways in which the Prime Minister might wish to write the Article 50 letter triggering the start of the UK's withdrawal process from the EU.

Given an Article 50 letter has never been written before there are a number of ways in which the Prime Minister might use the letter from a simple note to say the UK is triggering Article 50 all the way to using the letter to set out what the UK might be looking for from the negotiations or even to use the letter to start the negotiations by making an opening offer from the UK Government side.

Prime Minister in Scotland

Ahead of triggering Article 50, the Prime Minister was in Scotland on 27 March. Theresa May delivered a speech at the Department for International Development in East Kilbride and then met with the First Minister Nicola Sturgeon.

In her [speech](#) to Government civil servants in East Kilbride, the Prime Minister spoke about how the UK's international development policy improves the lives of people around the world. Linking the Government's work on international development to the upcoming Brexit negotiations the Prime Minister said:

“For we stand on the threshold of a significant moment for Britain as we begin the negotiations that will lead us towards a new partnership with Europe.

And I want to make it absolutely clear as we move through this process that this is not, in any sense, the moment that Britain steps back from the world. Indeed, we are going to take this opportunity to forge a more global Britain. The closest friend and ally with Europe, but also a country that looks beyond Europe to build relationships with old friends and new allies alike.”

The Prime Minister also related the UK's international development work to the strength of the United Kingdom saying:

“And it says this: that when this great union of nations – England, Scotland, Wales and Northern Ireland – sets its mind on something and works together with determination, we are an unstoppable force.

That is why the [Plan for Britain](#) I have set out – a plan to get the right deal for Britain abroad as well as a better deal for ordinary, working people at home – has as its heart 1 overarching goal: to build a more united nation.

Because I believe when we work together, there is no limit to what we can do. A more united nation means working actively to bring people and communities together by promoting policies which support integration and social cohesion.

In Scotland, Wales and Northern Ireland that means fully respecting, and indeed strengthening, the devolution settlements. But never allowing our Union to become looser and weaker, or our people to drift apart.

So in those policy areas where the UK government holds responsibility, I am determined that we will put the interests of the Union – both the parts and the whole – at the heart of our decision-making.”

On the future of the United Kingdom after Brexit, the Prime Minister said:

“So as we look to that future – and as we face this great national moment together – I hope you will continue to play your part in the great national effort we need to build the stronger Britain, the fairer Britain, the more outward-looking Britain and the more united Britain that I am determined we should be once we emerge from this period of national change.

Because as you prove every day through the work you do – and as some of the most vulnerable people in some of the most desperate conditions around the world can attest – this United Kingdom, and the values at its heart, is one of the greatest forces for good in the world today.

And when we work together and set our sights on a task, we really are an unstoppable force.”

After the Prime Minister had spoken in East Kilbride she travelled to Glasgow to meet with the First Minister. Following the meeting, the First Minister [tweeted](#) about the timetable for the Brexit negotiations:



Institute for Government – Legislating Brexit

On 20 March, the Institute for Government published [Legislating Brexit](#). The paper suggests that Brexit will require up to 15 new bills and “thousands of pages of secondary legislation before the Article 50 process is complete” which will place a lot of strain on Parliament and Government with a particular concern about the opportunities for scrutiny:

“For both government and Parliament, legislating for Brexit poses a significant question: how to balance the need to ensure the UK is ready to leave the EU with the imperative for effective democratic scrutiny of that process.”

To address these challenges, the Institute for Government proposes a number of ways in which Government and Parliament should approach the process. These are reflected in the key points which are reproduced below:

- Government should resist the temptation to introduce non-essential changes in the repeal bill. The priority should be on copying across the acquis, which can be amended after Brexit.
- Government needs to ensure it has central processes in place for prioritising and scheduling the passage of secondary legislation so that it is ready to deal with a significantly increased flow, and can ensure that scheduling allows the timely passage of Brexit-related secondary legislation.
- Government needs to avoid the temptation to over-rely on secondary legislation to amend primary legislation; there is a risk this could undermine the legitimate role of Parliament in scrutinising legislation.
- Government should produce white papers, draft legislation and full impact assessments in advance of introducing bills and secondary legislation to Parliament to ensure that Parliament can undertake well-informed scrutiny.
- To make space for Brexit legislation, departments will need to ruthlessly prioritise other legislation and indeed find non-legislative approaches to achieving policy aims where possible, particularly in the context of the Government’s narrow Commons majority.
- Parliamentarians should prioritise the relatively greater value they can bring to the legislative process at an early stage by conducting inquiries and taking evidence on proposed legislation in select and joint committees; pressing the Government to publish white papers and introducing bills in draft wherever possible; and timing their scrutiny carefully to ensure there is time for it to have impact.
- In preparation for the increased flow of secondary legislation that Brexit will bring, parliamentarians in both Houses need to review their processes for scrutinising such legislation, to ensure that MPs and peers are supported to conduct meaningful scrutiny, that processes are as simple as possible, and that Commons and Lords processes are complementary. This should include the

creation of a committee to provide advice to the Commons on which pieces of secondary legislation require particular attention.

- Parliamentarians need to recognise that the ‘superaffirmative’ procedures for scrutinising secondary legislation can be onerous and time-consuming for government and, therefore, given the time constraints involved in the Article 50 process, should only seek to require such enhanced procedures selectively.

Brexit in Parliament

The House of Lords European Union Committee is continuing its inquiry into [Brexit and devolution](#). On 28 March, the Committee will [take evidence](#) from the former Scottish First Minister Lord McConnell. The areas covered in the meeting are likely to include:

- The political, economic and legal implications for Scotland, and the other devolved nations, of the UK Government's approach to Brexit
- The implications on the Brexit negotiations of the Scottish Government's announcement of its intention to seek to hold a second independence referendum
- The role of the Scottish Parliament in connection to the 'Great Repeal Bill'
- The possibility of nations and regions of the UK having differentiated relationships with the EU

The evidence session will be broadcast on [Parliament TV](#).

On 23 March, the House of Lords European Union Committee published its inquiry report into [Brexit and the Crown Dependencies](#). The Crown Dependencies are not part of the UK, nor are they included in the UK's membership of the EU. However, the Islands have a limited relationship with the EU that is set out in Protocol 3 to the UK's Act of Accession. As such, Brexit is set to bring an end to the Islands' relationship with the EU, at least in its current form.

The Committee's [key findings](#) where:

“The Crown Dependencies’ number one priority is to maintain the strength of their close relationship with the UK. Yet the Committee highlight the potential tensions between this priority, and the desire to maintain as much as possible of the benefits of their existing relationship with the EU. The Committee identify areas where these priorities could come into conflict, including:

- *The ability to trade freely both with the UK and the EU including in fisheries, agriculture and manufacturing*
- *The financial services sector in the Crown Dependencies, and the ability to secure regulatory equivalence where appropriate*
- *The ability to continue to attract EU citizens to live and work in the Crown Dependencies while maintaining the Common Travel Area with the UK*

The Committee also stress that the Government has a constitutional responsibility to represent the interests of the Crown Dependencies in the Brexit negotiations.”

The Chairs of the House of Lords EU Sub-Committees on EU External Affairs and the Internal Market have written to the UK Government requesting “clarification and further information” on their responses to the Committees report on [Brexit options for trade](#). The [Government responded](#) to the Committee report on 28 February but the Committees have now [written back](#) to the Government.

According to the House of Lords website:

“The Sub-Committees were disappointed with the quality of the document, and found that a number of the Ministers’ responses did not adequately address the issues raised in the report.

Baroness Verma and Lord Whitty, have sent a letter to Lord Bridges of Headley and Lord Price. The letter states that this suggests that “the Government is not taking our concerns, or those of our expert witnesses, as seriously as it should”. It requests clarification and further information on their responses to a number of the conclusions and recommendations in the report.”

In the Scottish Parliament, the Rural Economy and Connectivity Committee has taken evidence on the impact of Brexit for different sectors.

On 15 March, the Committee held an [evidence session](#) on the impact of Brexit on fisheries and then on 22 March the Committee [took evidence](#) on Brexit and agriculture and forestry.

Scottish Government announces free tuition for EU nationals

On 24 March the Deputy First Minister, John Swinney [announced](#) that EU students who come to Scotland to study in 2018-19 will have the cost of their tuition covered for their whole course.

Announcing the move during a visit to the University of Dundee meeting students and staff, Mr Swinney said:

“I am proud that Scotland is a destination of choice for EU students and I am delighted to give them further reassurance by confirming that support from the Scottish Government for tuition-free studies will continue for those commencing courses here in the 2018-19 academic year.

“However, the continued refusal by the UK Government to give assurances to EU nationals living in Scotland that their rights will remain in place, ahead of the formal Brexit procedures beginning next week, is deeply concerning.

“EU students will rightly have concerns about any change in their status half way through a course. These students deserve certainty and knowing that their free tuition is in place for the entirety of their course is important, that is why I have confirmed this free tuition.”

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