

No-Deal Brexit Guidance

*** Given the continuing uncertainty surrounding the UK's exit from the EU, the Scottish Funding Council has published guidance for Scottish colleges and universities on managing a no-deal Brexit. We encourage institutions to be prepared for any eventuality and have included within this document a number of useful links for further information. In the light of this fast moving policy environment, please also be aware that this briefing is a live document and will be updated as appropriate. ***

Introduction

If the United Kingdom (UK) leaves the European Union (EU) without a formal deal and transition period having been agreed ('no-deal Brexit'), there would be no transition period. The Scottish Funding Council is working with the Scottish Government to consider the potential consequences that a no-deal Brexit could have for colleges and universities.

Brexit impacts are likely to be greatest in a no-deal scenario. Areas of potential impact include:

- Levels of funding.
- Staff and students in Scotland.
- Movement of people.
- Availability and price of consumables and equipment required for study.
- Availability of data.
- Continuation of EU-wide projects and trials.
- Access to facilities in the EU.
- Mutual recognition of professional qualifications.

Most of the material in this briefing draws on other information sources and we have included a number of useful links for further information at the end of this document.

Impact on people

In the case of no-deal, the current freedom of movement of people between the UK and the EU / EEA / Switzerland will end immediately. The implications of this, as far as they are known at this stage, are set out below.

UK Nationals studying in the EU / EEA/ Switzerland

Some EU Member States have already given assurances to UK Nationals about their residency and other citizen rights. However, students may find it difficult to complete their studies in the EU due to reasons such as: affordability of tuition fees, access to healthcare, or a change in immigration requirements. In a no-deal Brexit situation, students should contact their course provider for individual advice about completing their studies.

If students cannot, or do not wish to, remain at their EU / EEA or Swiss institution post-Brexit, they may wish to apply for a transfer to a Scottish higher education provider. Further details on the transfer process are available on the Student Awards Agency Scotland [website](#).

EU / EEA / Swiss citizens resident in the UK before Brexit

In a no-deal scenario, the UK Government guarantees that EU / EEA / Swiss citizens resident in the UK before Brexit will be able to stay and have their rights protected, subject to certain conditions.

EU / EEA / Swiss citizens (except those from the Republic of Ireland (RoI)) will have to apply for 'settled status' if they have lived continuously in the UK for at least 5 years and want to stay in the UK after 31 December 2020.¹ Non-EU / EEA / Swiss family members of EU, EEA or Swiss citizens will also need to apply if they want to stay in the UK after 31 December 2020.

Those who have not lived continuously in the UK for 5 years and want to stay, will have to apply for 'pre-settled status'. Once they have been resident for 5 continuous years, they can apply for 'settled status'.

Those approved for 'pre-settled status' or 'settled status' should be able to continue to work, study and access benefits and services in the UK.

The EU Settlement scheme is now open. The UK Government has now waived the

¹ Continuous residence means that for 5 years in a row a person has been in the UK for at least 6 months in any 12 month period, except for one period of up to 12 months for an important reason (for example, childbirth, serious illness, study, vocational training or an overseas work posting) or for compulsory military service of any length.

£65 fee originally set.

Institutions should advise their staff and students who are EU / EEA / Swiss nationals, and their family members, that they should apply for settled status through the EU settlement scheme.

EU / EEA / Swiss citizens who move to the UK after Brexit

In the event of a no-deal scenario, the UK Government has published a policy paper laying out the European Temporary Leave to Remain immigration rules that will apply to EU (and their family members), EEA and Swiss Nationals entering the UK after Brexit.² This proposes that:

- EU, EEA and Swiss nationals will be subject to UK immigration rules.
- They will be allowed to enter the UK (with permission to work and study) for a period of up to 3 months without a visa.
- If they wish to extend their stay after that period, they will have to apply for leave to remain, which, if granted, will be given on a temporary basis for 36 months. There will be costs involved and the visa will be non-extendable.
- Alternatively, students can enter the UK via Tier 4 of the Points Based System for a student visa to cover the full length of their course.
- These arrangements will remain in place until the end of December 2020. From January 2021, citizens will be subject to the immigration policies laid out in the UK Government's white paper on the future of immigration policy.
- The white paper proposal is for a single, skills-based immigration system post-freedom of movement. There will be a year-long programme of engagement with stakeholders across the UK on the proposals set out in the white paper, to which SFC will contribute.

EU, EEA and Swiss national students entering in academic year 2019 / 2020 and 2020 / 2021 are covered by the commitment made by the Scottish Government that the students would be eligible for home fee status for the duration of their course. It may be that, despite having an offer of study and home fee status, some EU / EEA / Swiss students may decide not to take up their place.

Students and staff from the Republic of Ireland

Staff and students from the RoI will continue to be eligible to live and work in Scotland without restriction. This is due to the Common Travel Agreement (CTA). This agreement between the UK and Ireland pre-dates the UK's membership of the EU.

² The provisions outlined in the policy paper are subject to parliamentary approval of the necessary legislation before these proposals can be implemented.

Erasmus+

Students and staff on Erasmus+ and European Solidarity Corp programmes on the date of the UK's withdrawal from the EU

If the UK leaves without a deal, staff, students and trainees on Erasmus+ and European Solidarity Corp (ESC) mobilities on the date of Brexit should be able to complete their exchange (subject to immigration policy in the resident country). This will apply to Scottish students studying at EU27 institutions and EU27 students studying at Scottish institutions. This is provided that the UK and EU reach an agreement on the eligibility of UK organisations to continue participation.

If the UK leaves the EU without a deal, institutions may no longer receive EU funding for Erasmus+ projects and may need to make a claim against the HMG guarantee. The guarantee will cover the payment of awards to UK applicants for all successful Erasmus+ bids submitted before the end of 2020. It is recommended that Scottish institutions seek to make bilateral agreements with Erasmus+ partners which include a no-deal Brexit scenario.

Students and staff wishing to access Erasmus+ and European Solidarity Corp programmes after the UK's withdrawal from the EU

In a no-deal scenario it is the UK Government's intention to discuss with the European Commission the terms by which the UK would be able to continue to participate in Erasmus+.

Provided an agreement can be met, it is envisaged that those projects / groups that fall within the scope of the UK's new status would be able to submit future bids, covered by the funding guarantee. The National Agency will administer the government guarantee on behalf of the Government. Organisations will need to initiate claims through the Grants Management Function accessed through GOV.UK.

If terms cannot be agreed the UK would no longer retain access to the programme, and projects from the UK would not be eligible to make future bids. If discussions with the Commission to secure UK organisations' continued ability to participate in the programme are unsuccessful, the government will engage with Member States and key institutions to seek to ensure UK participants can continue with their planned activity.

It is recommended that Scottish institutions make contingency plans with Erasmus+ partners for students who are expected to take up exchange programmes after the UK's withdrawal date.

Impact on business continuity

SFC is working with universities and colleges to consider the impact a no-deal Brexit could have on them as a business. This is to encourage thinking about

- Business continuity.
- Supply chains (for example, catering and research materials).
- Service provision (for example, waste disposal).
- Regulatory frameworks.
- Reassurance for staff who are EU nationals in the UK, UK staff in the EU, and non-EU staff who have concerns regarding business sustainability.

Other organisations have also produced useful resources ahead of Brexit. In October 2018, Audit Scotland published a report, [Withdrawal from the European Union: Key audit issues for the Scottish public sector](#). Scottish Enterprise has developed a toolkit [Prepare for Brexit](#). Colleges and universities are advised to use these resources as part of their preparation.

Information Technology and data protection

We have been assured by Jisc that the Janet network will continue to operate in a no-deal scenario. Jisc has a [designated page](#) of its website for FAQs regarding Brexit.

Regarding data protection, the UK is expected to become a "third country" if it leaves the EU. The UK Government has stated that the rules for transferring personal student data from colleges and universities in the UK to the EU will remain the same. However, any transfers from the EU to the UK will need to satisfy General Data Protection Regulation.

Research

Horizon 2020

In the case of a no-deal, the European Commission has stated it will honour all contracts signed up to 30 March 2019, including those for research and innovation. However, this covers calendar year 2019 only and is subject to the UK paying its share of the 2019 EU budget.

HM Treasury has guaranteed replacement funding to UK organisations, for existing projects under Horizon 2020. Funding for approved applications for participation in Horizon 2020 submitted both until and after the UK leaves the EU have also been guaranteed.

UK researchers and businesses would be able to apply to and participate in all those Horizon 2020 calls open to third country participants from the date of exit. Funding

would be provided via the extended guarantee from the UK Government.

The details of the underwrite process and the associated timescales are currently unknown. The UK Government is seeking discussions with the European Commission to agree the precise details of eligibility. The UK Government is also considering what other measures may be necessary to support UK research and innovation in a no-deal scenario.

This guarantee, however, only focuses on the financial aspects of participation. The impact of Brexit on the exchange of people, goods and data is not covered.

Furthermore, the guarantee does not cover most of the European Research Council and Marie Skłodowska-Curie Actions funding. In the case of no-deal, the UK is expected to no longer be able to participate in these as a non-associated industrialised third country.

A [portal](#) has been established by UK Research and Innovation (UKRI) to gather information on projects covered by the guarantee, and keep Horizon 2020 participants informed of future developments.

Horizon Europe

In the longer term, the UK Government's stated position is to associate to Horizon Europe (Horizon 2020's successor) which is due to begin in 2021. However, the conditions for association to Horizon Europe have not been finalised yet and may differ from those currently in place for Horizon 2020. UK participation will also be subject to a Value for Money analysis by the UK Government.

The UK Government is also exploring alternatives if the UK chooses not to associate to Horizon Europe. Professor Sir Adrian Smith has been commissioned to provide independent advice on the design of potential future UK funding schemes for international research and collaboration. It is anticipated interim findings will be presented in the Summer of 2019.

Scottish institutions are advised to strengthen bilateral relationships with countries and organisations in the EU / EEA and utilise existing research and innovation networks to ensure opportunities for continued collaboration. Examples include the League of European Research Universities, the Guild, and Cesaer. Scotland is actively engaged in these networks, and they align with our strategic interest.

European Social Funds

Where colleges are in receipt of European Social Funds (ESF) for the Developing Scotland's Workforce programme, this will continue to be honoured until the end of this programme cycle in 2023. In the event of a no-deal exit from the EU, this funding

has been underwritten by the HM Treasury Guarantee. Beyond this date the UK Government has committed to a new domestic fund which will replace ESF, the UK Shared Prosperity Fund (UKSPF). At the time of writing the consultation on UKSPF proposals have not been published.

Useful links

Audit Scotland Report – Withdrawal from the European Union: Key audit issues for the Scottish public sector: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/paper_181011_eu_withdrawal.pdf

EU Citizens Rights resource: <http://citizensrightsproject.org/>

Jisc has a page of FAQs on the potential impact of Brexit: <https://www.jisc.ac.uk/about/corporate/brexit-faqs>

Scottish Enterprise Prepare for Brexit toolkit for businesses: <https://www.prepareforbrexit.scot/updates/components-folder/filtered-card-list/prepare-for-brexit-toolkit>

Student Awards Agency Scotland Brexit section: https://www.saas.gov.uk/full_time/brexit/index.htm

Student Awards Agency Scotland advice for UK nationals studying in the EU / EEA / Switzerland: https://www.saas.gov.uk/full_time/brexit/forms/br1.pdf

Scottish Government Guidance on EU Exit: <https://www.mygov.scot/brexit/>

Scottish Government Guidance on supporting EU citizens to stay in Scotland: <https://www.gov.scot/publications/eu-citizens-staying-in-scotland-package-of-support/>

Scottish Government Guidance on EU Exit impact on Education: <https://www.mygov.scot/eu-exit-education/>

UK Government Guidance on how to prepare for Brexit if there is no-deal: <https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>

UK Government Guidance on Erasmus+ in the UK and European Solidarity Corps (ESC) if there is no Brexit deal: <https://www.gov.uk/guidance/register-to-claim-erasmus-and-esc-funding-from-the-government-guarantee>

UK Government Guidance on EU Direct Bid funds: UK recipient registration instructions: <https://www.gov.uk/government/publications/eu-direct-bid-funds-uk-recipient-registration-instructions>

UK Government Guidance on European Social Fund grants if there is no Brexit deal:
<https://www.gov.uk/government/publications/european-social-fund-esf-grants-if-theres-no-brexit-deal/european-social-fund-esf-grants-if-theres-no-brexit-deal>

UK Government Guidance on Further Education Institutions and Apprenticeship providers in England on how to prepare for Brexit:
<https://www.gov.uk/government/publications/eu-exit-no-deal-preparations-for-further-education-and-apprenticeship-providers/eu-exit-no-deal-preparations-for-fe-and-apprenticeship-providers>

UK Government Guidance on Higher Education Institutions in England on how to prepare for Brexit: <https://www.gov.uk/government/publications/eu-exit-no-deal-preparations-for-higher-education-institutions/eu-exit-no-deal-preparations-for-higher-education-institutions>

UK Government website for UK participants who are in receipt of Horizon 2020 funding: <https://apply-for-innovation-funding.service.gov.uk/eu-grant/overview>

UK Parliament website – Chris Skidmore written statement on Adrian Smith Review:
<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-03-26/HCWS1449/>

Universities UK briefing note – A ‘No-deal’ Brexit: Implications for universities and minimising risk: <https://www.universitiesuk.ac.uk/policy-and-analysis/brexit/Documents/no-deal-brexit-implications-for-universities-and-minimising-risk.pdf>