

Request Reference: 63-17

Date of Response: 15/05/2017

Request:

I refer to your recent email dated 12/04/2017 requesting the following information under the Freedom of Information Act 2000 ("FOIA"):

- " (1) How does student finance define the term 'student' for the purpose of the regulations?*
- (2) Please define the requirements of a full time course of study on a degree course?*
- (3) Is a Modular course a full time course of study?*
- (4) Can a Modular course be a part time course of study even though the governing body may have classified it as full time at the start?*
- (5) How does student finance classify a 'student' or what are the requirements of being classified a 'student'?*
- (6) Are all persons classified as 'students' just because they on a modular course?*
- (7) What regulations contain the terms of loan agreements?*
- (8) Is a loan dependant on certain conditions being met? And if so, what are those conditions? Are these conditions prescribed in what regulations?*
- (9) Is it a condition of loan, that the applicant must be available for employment 12 months preceding the application?*
- (10) Can a loan be cancelled due to a disability rendering the borrowers permanently unfit to work? Is this provided for in the regulations?*
- (11) What regulations continue to prescribe conditions of eligibility for a student loan?*
- (12) Is a Certificate of Eligibility for a loan required or is it illegal to provide a loan without a certificate?*
- (13) Are there additional means of eligibility required to make certain that a person is eligible for a loan?*
- (14) Is the student loan company committing an offence if a demand is made to repay a loan, where a Certificate of Eligibility is not disclosed?*
- (15) When a loan is made and conditions are not met, is the administrator of the loan liable to a criminal conviction?*
- (16) Where the loan administrator has provided an illegal loan, is the loan cancelled, cancelled means as if it has never been made?*
- (17) Where the loan is cancelled, is the sum already paid, a gift?*
- (18) Is it breach of Data Protection 1998 to forward a student finance application to Housing Benefit Services or Department of Work & Pensions?"*

Clarification of your request was sought on 18/04/2017 in relation to your definition of "modular course" and which UK domicile you wished to receive information about (as student finance policy differs between each UK domicile. You responded by email dated 18/04/2017 as follows:

"I am requesting only information relevant to provision of student finance for people born in the UK, who are entitled to funding at a university, because they have no UK degree.

Correct me if I am wrong, but the Social Security Amendment (Students) Regulations 2000/1981 reg.5 (July 31, 2000) in parapragh (sic) 2 defines a modular course as a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course."

By email dated 19/04/2017 you further clarified your request as follows:

“the information I am researching need only apply to persons requesting student finance between 2008 to 2014 and these persons must be living in UK and UK born with no formal degree and be of single status, over the age of 25 and in receipt of a social security benefit.”

Response

Please note that your specifics of being UK born, having no formal degree, being single, over the age of 25 and in receipt of a social security benefit are not student loan eligibility criterion. The response which follows covers Income Contingent Repayment (“ICR”) student loan eligibility requirements across all four UK domiciles between the required period of 2008 to 2014. The period 2008 to 2014 spans academic years 2007/08 to 2014/15.

Having reviewed the relevant Regulations for all four UK domiciles, although the Regulations and Regulation numbers may differ, the rules are similar enough for sections of the Regulations relevant to your request. Those sections are:

- designated courses;
- eligible students;
- conversion of status; and
- loan cancellation.

The responses to your specific questions make reference to the Education (Student Support) Regulations which apply to students domiciled in England and EU students studying in England. Annex A below contains the specific Regulations for the other UK domiciles of Wales, Scotland and Northern Ireland.

The Student Support Regulations for England and Wales are supported by Guidance Chapters. A copy of the 2007/08 and 2008/09 Assessing Eligibility Guidance Chapters are attached to this response, and Assessing Eligibility Guidance Chapters for 2009/10 onwards are available online at <http://www.practitioners.slc.co.uk/policy-information/guidance-chapters.aspx> , therefore exempt from disclosure under section 21(1) of the FOIA as these are reasonably accessible to you by other means.

SLC also holds Guidance Chapters for Higher Education in Wales. Guidance Chapters for academic year 2012/13 onwards are available on the Student Finance Wales website at <http://www.studentfinancewales.co.uk/practitioners/policy-information/guidance-chapters.aspx#.WRlpVflVguE>, therefore also exempt from disclosure under section 21(1) of the FOIA as these are reasonably accessible to you by other means. Guidance Chapters for Wales covering earlier years are attached to this response.

SLC does not hold Guidance Chapters for Northern Ireland or Scotland.

Question 1

“Student” is not explicitly defined in the Regulations for the period requested. However, for the purpose of the Regulations, a “student” would be someone studying a Higher Education course with a Higher Education Provider (“HEP”).

Question 2

The provisions for what can be considered designated courses can be found under Regulation 5 in the 2007-2009 Student Support Regulations and Regulation 6 for the 2011 Student Support Regulations. The Guidance Chapters which support the Student Support Regulations also provide further context to this in the 'Designated Courses' section. This will cover the requirements for what is required for a course to be designated as a full-time course for each academic year in question.

The 2007/08 Assessing Eligibility Guidance "Designated Courses" section provides that:

"Although "full-time" is not defined in the Regulations, the following guidance may be used to decide whether a course is full-time. 'Full-time' courses should require that:

- 1. Students are normally required to undertake the course for a period of a minimum of 24 weeks in each academic year, and for courses of two years or more, for a minimum of eight weeks in the final year;*
- 2. That a whole year full-time fee is chargeable by the institution for the current year of the programme of study (exceptions to this will be made for students who are repeating part of a year);*
- 3. Full-time means that students are required to undertake their course on most days of the week and for most weeks of the academic year for its duration, excluding weekends and the usual vacations."*

Question 3

A course being comprised of Modules does not determine whether it is full-time or part-time, rather the criteria sourced in the response to question 2 above.

Question 4

A student's status can be converted from full-time to part-time either when they transfer from one course to another or if the course was originally incorrectly classified. Regulation 123 under the title 'Conversion of Status' in The Education (Student Support) Regulations 2007 provides:

"123.—(1) Where an eligible student ceases to undertake a designated course and transfers to a designated part-time course at the same or at another institution, the Secretary of State must convert the student's status as an eligible student to that of an eligible part-time student in connection with the course to which he is transferring where— (a) he receives a request from the eligible student to do so; and (b) the period of eligibility has not terminated."

Similar provisions can be found in the Education (Student Support) Regulations 2008 (Regulation 145), the Education (Student Support) Regulations 2009 (Regulation 146) and the Education (Student Support) Regulations 2011 (Regulation 152).

Question 5

As per the answer to question 1, there is no definition or classification of a 'student' in the Regulations. However, there are a number of classifications relevant to being determined 'an eligible student' which you may find useful. The section on 'Eligible Students' can be found under Regulation 5 in the 2007-2009 Student Support Regulations and Regulation 6 for the 2011 Student Support Regulations. The numerous criteria for being an eligible student are also covered in the attached Guidance Chapters and those Guidance Chapters available online (link provided in response to question 2 above).

Question 6

I would refer to back to our responses to questions 1 and 3 above.

Question 7

The applicable Regulations depend on UK domicile and academic year. Please refer to Annex A for full details and relevant links.

Question 8

There are a number of conditions which have to be met before a student can be eligible for a loan/finance. Student loan eligibility conditions are prescribed in student loan legislation. All legislation is available on the government's www.legislation.gov.uk website. Please refer to the relevant and applicable Regulations set out in Annex A below.

The Guidance Chapters attached and available at the link provided in response to question 2 above contain a summary of the conditions.

Question 9

No. None of the student loan regulations make any reference to applicants having to be available for 12 months preceding their application.

Question 10

This information is exempt from disclosure under section 21(1) of the FOIA as this is considered reasonably accessible to you by other means. The timeframe of 2008 to 2014 covers 2 different student loan plan types – plan 1 and plan 2. Borrowers can establish which plan type they are on by answering a few questions on our repayment website at the following link:

http://www.studentloanrepayment.co.uk/portal/page?_pageid=93,6678408&_dad=portal&_schema=PORTAL

Student loan cancellation information can be found at the following links:

Plan 1 –

http://www.studentloanrepayment.co.uk/portal/page?_pageid=93,6678571&_dad=portal&_schema=PORTAL

Plan 2 –

http://www.studentloanrepayment.co.uk/portal/page?_pageid=93,6678775&_dad=portal&_schema=PORTAL

Student loan cancellation provisions, and the specific requirements can be found in the relevant legislation:

- England and Wales – Regulation 19 of the Education (Student Loans) (Repayment) Regulations 2009, as amended
- Northern Ireland – Regulation 14 of the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009, as amended
- Scotland – Regulation 8 of the Repayment of Student Loans (Scotland) Regulations 2000, as amended

Links to these Regulations are included in Annex A.

Question 11

Conditions of eligibility for a student loan are prescribed in the relevant Regulations applicable to the specific UK domicile and academic year in question.

Please refer to the Regulations set out in Annex A below.

In terms of the Regulations which continue to prescribe conditions of eligibility for a student loan, for academic year 2016/17 these are the Education (Student Support) Regulations 2011, as amended. Academic year 2016/17 also saw the introduction of postgraduate loans, the relevant legislation for which is the Education (Postgraduate Master's Degree Loans) Regulations 2016, as amended (available at <http://www.legislation.gov.uk/uksi/2016/606/contents/made>).

Question 12

A "Certificate of Eligibility" is not a condition of ICR student loans. It is not illegal to provide a student loan without such a certificate.

Eligibility certificates were issued by Higher Education Providers in relation to Mortgage Style student loans (loans available to Higher Education students starting courses before September 1998). The relevant statutory provisions are available on the Regulations applicable to Mortgage Style loans, the most recent being Regulation 8 of the Education (Student Loans) Regulations 1998 (<http://www.legislation.gov.uk/uksi/1998/211/regulation/8/made>).

Question 13

All student loan eligibility requirements can be found in relevant and applicable student loan Regulations. I would refer you back to our response to question 8 above.

Question 14

SLC is not committing an offence if a demand to repay a student loan is made where a Certificate of Eligibility is not disclosed. Please refer to our response to question 12 above. In addition, it should be noted that repayment of ICR student loans (being the loans issued during the period 2008 to 2014) is income contingent, and student loan statements issued clearly state that they are not demands for payment.

Question 15

No.

Question 16

While the word "illegal" is defined as "contrary to or forbidden by law", the word is especially applicable in criminal law. In the event that a student loan has been paid in error to a student who was not in fact an eligible student under whatever the applicable Regulations were at the relevant time, this is considered to be an overpayment. In such circumstances the loan is not cancelled. The loan paid in error would be regarded as an overpayment, and the relevant overpayment provisions applied.

Question 17

No. When a student loan is cancelled, it is the borrower's outstanding balance and liability to repay their loan that is cancelled. This does not meet the definition of a gift, and student loan cancellations provisions are a statutory feature of student loans. The borrower would not be entitled to any refund of any monies already repaid.

Question 18

We are unable to provide a definitive response to this question as this depends entirely on the individual circumstances.

Please note that any future requests for the same or similar information may be refused as vexatious under section 14(1) of the FOIA. While the identity and motives of any individual is not a consideration for the majority of request for information under the FOIA, in this particular case we feel that your identity and your previous complaints with our Customer Relations Unit and Tower Hamlets Student Finance Section are relevant considerations that would allow us to consider applying section 14(1) to future requests relating to student loan eligibility and similar subject matter.

Annex A

England

The Student Support Regulations which are applicable to assessing and paying student finance, and contain eligibility requirements, over the period 2008 to 2014 are as follows:

- For courses commencing on or after 01/09/2007 – The Education (Student Support) Regulations 2007 (<http://www.legislation.gov.uk/uksi/2007/176/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2007/176>).
- For courses commencing on or after 01/09/2008 - The Education (Student Support) Regulations 2008 (<http://www.legislation.gov.uk/uksi/2008/529/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/uksi/2008/529>).
- For courses commencing on or after 01/09/2009 – The Education (Student Support) (No 2) Regulations 2008 (<http://www.legislation.gov.uk/uksi/2008/1582/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2008/1582>).
- For courses commencing on or after 01/09/2010 - The Education (Student Support) Regulations 2009 (<http://www.legislation.gov.uk/uksi/2009/1555/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/uksi/2009/1555>).
- For courses commencing on or after 01/09/2012 - The Education (Student Support) Regulations 2011 (<http://www.legislation.gov.uk/uksi/2011/1986/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/uksi/2011/1986>).

The Regulations applicable to student loan repayments (including cancellation provisions) over the period 2008 to 2014 are as follows:

- The Education (Student Loans) (Repayment) Regulations 2000, as amended - <http://www.legislation.gov.uk/uksi/2000/944/contents/made> (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2000/944>).
- The Education (Student Loans) (Repayment) Regulations 2009, as amended – <http://www.legislation.gov.uk/uksi/2009/470/contents/made>, (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2009/470>). These revoked and re-enacted with amendments the Education (Student Loans) (Repayment) Regulations 2000.

Wales

The Regulations which are applicable to assessing and paying student finance, and contain eligibility requirements, over the period 2008 to 2014 are as follows:

- For courses commencing on or after 01/09/2007 – The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2007 (<http://www.legislation.gov.uk/wsi/2007/1045/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2007/1045>).
- For courses commencing on or after 01/09/2008 – The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2008 (<http://www.legislation.gov.uk/wsi/2008/1273/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2008/1273>).
- For courses commencing on or after 01/09/2009 - The Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2008 (<http://www.legislation.gov.uk/wsi/2008/3170/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2008/3170>).
- For courses commencing on or after 01/09/2010 - The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009 (<http://www.legislation.gov.uk/wsi/2009/2737/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2009/2737>).
- For courses commencing on or after 01/09/2011 - The Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011 (<http://www.legislation.gov.uk/wsi/2011/148/note/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2011/148>).
- For courses commencing on or after 01/09/2012 – The Assembly Learning Grants and Loans (Higher Education) (Wales) (No 2) Regulations 2011 (<http://www.legislation.gov.uk/wsi/2011/886/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2011/886>).
- For courses commencing on or after 01/09/2013 – The Education (Student Support) (Wales) Regulations 2012 (<http://www.legislation.gov.uk/wsi/2012/3097/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2012/3097>).
- For courses commencing on or after 01/09/2014 – The Education (Student Support) (Wales) Regulations 2013 (<http://www.legislation.gov.uk/wsi/2013/3177/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2013/3177>).

The Regulations applicable to student loan repayments (including cancellation provisions) over the period 2008 to 2014 are the same as those in the section for England above.

Scotland

The Regulations which are applicable to assessing and paying student finance, and contain eligibility requirements, over the period 2008 to 2014 are as follows:

- The Education (Student Loans) (Scotland) Regulations 2007 (<http://www.legislation.gov.uk/ssi/2007/154/note/made>) (as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2007/154>))

The Regulations applicable to student loan repayments (including cancellation provisions) over the period 2008 to 2014 are as follows:

- The Repayment of Student Loans (Scotland) Regulations 2000 (<http://www.legislation.gov.uk/ssi/2000/110/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/all/2000/110>).

Northern Ireland

- For courses commencing on or after 01/09/2007 – The Education (Student Support) Regulations (Northern Ireland) 2007 (<http://www.legislation.gov.uk/nisr/2007/195/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/nisr/2007/293/contents/made> and <http://www.legislation.gov.uk/nisr/2007/363/contents/made>).
- For courses commencing on or after 01/09/2008 – The Education (Student Support) Regulations (Northern Ireland) 2008 (<http://www.legislation.gov.uk/nisr/2008/250/contents/made>).
- For courses commencing on or after 01/09/2009 - The Education (Student Support) Regulations (Northern Ireland) 2009 (<http://www.legislation.gov.uk/nisr/2009/37/contents/made>).
- For courses commencing on or after 01/09/2010 onwards - The Education (Student Support) (No 2) Regulations (Northern Ireland) 2009 (<http://www.legislation.gov.uk/nisr/2009/373/contents/made>), as amended (amendments available at <http://www.legislation.gov.uk/changes/affected/nisr/2009/373>).

The Regulations applicable to student loan repayments (including cancellation provisions) over the period 2008 to 2014 are as follows:

- The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000 (<http://www.legislation.gov.uk/nisr/2000/121/contents/made>), as amended

- The Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 (<http://www.legislation.gov.uk/nisr/2009/128/contents/made>), as amended.

Amendments to both sets of Regulations can be found at

<http://www.legislation.gov.uk/all?title=The%20Education%20%28Student%20Loans%29%20%28Repayment%29%20Regulations%20%28Northern%20Ireland%29>