

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Consideration of an increase to the age cap for access to student living cost loans. Provided for in Regulation 3 of the Education (Student Loans) (Scotland) Regulations 2007.	
Minister	Minister for Higher Education, Further Education, Youth Employment and Training – Jamie Hepburn MSP.	
Lead official	David Mackay – Student Financial Support Team	
Officials involved in the EQIA	Name	team
	Michael Hunter	Advanced Learning and Skills Analysis
	Ricarda Senger	Advanced Learning and Skills Analysis
Directorate: Division: Team	Advanced Learning and Science: Higher Education and Science: Student Financial Support Team	
Is this new policy or revision to an existing policy?	Review of an existing policy.	

Screening

Policy Aim

To review the current age limit that students are able to access living cost loans for periods of study at higher education level with a view to increasing this.

The current policy sets out eligibility for access to living cost loan support to those aged under 60 at the start of their course. The aim of the policy is part of a wider government policy to prioritise support for people entering the labour market and to ensure that students taking out a living cost loan have a reasonable chance to repay some or all of the loan.

The Scottish Government is reviewing this policy as part of the consolidation of the student support regulations and in light of recent and future planned increases to the state pension age. The current state pension age for both men and women is 66 and a planned increase to 67 is scheduled for 2027. This will result in students over 60 potentially working for longer, more likely to require retraining and with a greater opportunity to pay back any student loan.

Under the Public Sector Equality Duty the Scottish Government also has a responsibility to have due regard to protected characteristics such as age.

This contributes to the following national outcome:

- We are well educated, skilled and able to contribute to society.

Who will it affect?

The current student loan age cap impacts on students aged 60 and over, placing a restriction on their ability to take out a living cost loan to support their higher education study. These students are still able to access tuition fee support, any living cost bursaries and support from discretionary funds, however the inability to receive living cost loans may deter older students from studying at higher education level.

An increase in the student loan age cap in Scotland will impact on students aged 60 and over. This may also indirectly impact on younger students who may feel they are disadvantaged because they are more likely to pay off the majority or all of their student loan.

There are generally more women than men undertaking courses of higher education and this is true for those aged 60 and over. The incidence of disability is also higher in the older population, and therefore the protected characteristics of 'sex' and 'disability' are within the scope of this EQIA.

Any change to the student loan age cap is unlikely to have an impact on the other protected characteristics.

What might prevent the desired outcomes being achieved?

Any change to the student loan age cap would have to balance the desire for students of all ages to access support to study higher education and the overall affordability of the student support system. This has to be factored into the affordability of issuing student loans, the impact on student loan repayments and student debt write-off and the Scottish Government's wider policy considerations for higher education.

Stage 1: Framing

Results of framing exercise

An initial framing exercise was carried out by the Higher Education and Science Division to gather the evidence to inform this EQIA. Existing evidence is available from :

- Scottish Government analysis of Higher Education Statistics Agency (HESA) data.

Potential Impacts

With the recent, and planned, increase to the state retirement age and the changing attitudes towards retirement and continued work, there are potentially a number of older students who are restricted in the support they can receive because of the lack of access to living cost loans.

An increase to the student loan age cap will most likely have a positive impact on older student, in particular women, who are more likely to study courses of higher education. There may also however be an indirect negative impact on younger students. Younger students are more likely to repay most/all of their student loan as they will spend longer in the labour market compared to students aged 60 and over.

Extent/Level of EQIA required

As the policy change relates to a potential increase to the student loan age cap which will benefit older students, it is considered that a concise and focused Equality Impact Assessment is proportionate in these circumstances.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>Data gathered by Analytical Services Division – From the information available we have identified 75 Scottish domiciled students over the age of 60 who were studying a full-time first undergraduate degree at a Scottish higher education institution in the 2019/20 academic year.</p> <p>Of those, 55 were between the ages of 60-65 and 20 were over the age of 65.</p> <p>The figures are taken in the context of the overall student population in the 2019/20 academic year which was 100,895.</p>	Higher Education Statistics Agency (HESA)	There is no clear data to identify the possible numbers of individuals over the age of 60 who would have returned to study if living cost loans were available to them. Further engagement with relevant stakeholders – NUS Scotland and Age Scotland may be able to identify individual case studies of people who have been unable to take up higher education places because they were 60 or over and didn't have access to living cost loans. However, we have received several individual letters to Scottish Ministers from individuals aged 60 or over who have confirmed that they were unable to take up higher education opportunities because of the lack of access to living cost loans.
DISABILITY	Data gathered by Analytical Services Division – Of the 75 students aged 60 and over, we have identified 20 as having a known disability.	HESA	No data gaps identified
SEX	Data gathered by Analytical Services Division – Of the 75 students aged 60 and over, 30 are male and 45 are female.	HESA	No data gaps identified
PREGNANCY AND MATERNITY	N/A – no data to show relevance of Pregnancy/Maternity to the student loan age cap.		SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

				purpose and therefore this information is not readily available.
GENDER REASSIGNMENT	N/A – no data to show relevance of Gender Reassignment to the student loan age cap.			SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this purpose and therefore this information is not readily available.
SEXUAL ORIENTATION	N/A – no data to show relevance of Sexual Orientation to the student loan age cap.			SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this purpose and therefore this information is not readily available.
RACE	N/A – no data to show relevance of Race to the student loan age cap.			SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this purpose and therefore this information is not readily available.
RELIGION OR BELIEF	N/A – no data to show relevance of Religion or Belief to the student loan age cap.			SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this purpose and therefore this information is not readily available.
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected	N/A			SAAS do not gather statistical data on this protected characteristic via student applications that could be used for this purpose and therefore this information is not readily available.

Characteristics
document for details)

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Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
<p>Eliminating unlawful discrimination, harassment and victimisation</p>	<p>The current policy in relation to access to higher education is not limited by age. There is no age limit for access to tuition fee support or for the additional bursaries/grants or discretionary funds that students are eligible for. The student loan age cap is in place as part of the wider Scottish Government policy to ensure that the overall student support system remains affordable. There is also a requirement that it</p>	<p>There is potentially a negative impact on those aged 60 and over who are unable to access the additional living cost loan support to study courses of higher education. Evidence received in the form of correspondence from individuals and MSP's suggests that some older people are finding remaining in or accessing higher education difficult because of the lack of living cost loans and that some are being put off applying for higher education courses for the same reason.</p>		<p>Setting an age cap on access to living cost loans is discriminatory on the basis of age. Therefore we have to consider whether this is proportionate and justifiable in the circumstances. With regard to the overall affordability of the student support system, and the Scottish Government policy of providing free tuition for first degree students of all ages, setting the student loan age cap at 60, is proportionate and justifiable.</p> <p>Based on the number of enquiries we get from students aged 60 and over, when taken in the context of the overall student population, it is difficult to provide evidence of how any change to this policy would have an impact, either positive or negative. Therefore, we have to consider that any change to the student loan age cap would have a small policy impact, this includes the consideration of any increases to the age cap.</p>

	<p>meets the current priorities of ensuring free tuition for Scottish domiciled students and that the highest bursary support is targeted at students from the lowest household income brackets.</p>			
<p>Advancing equality of opportunity</p>	<p>Increasing the student loan age cap from the current age of 60 would have a positive impact on equality of opportunity.</p>	<p>Having an age cap in place in general does limit equality of opportunity.</p>		<p>A student who is 60 or over and wishes to attend a course of higher education is able to receive tuition fee support and access to living cost bursaries and discretionary funds. Therefore, it can be argued that there is equality of opportunity for people of all ages.</p> <p>However, it does remain that the same person would be unable to access the additional living cost loan support that is available to students under the age of 60. This would then put an additional burden on students to self-finance the aspect of their living costs that other students are able to take a loan out for. This may lead to students aged 60 and over having to take out commercial loans or require them to study part-time in order to supplement their living costs with paid work. This may limit their ability to access full time higher education and may be considered as a barrier to equality of opportunity.</p> <p>Increasing the student loan age cap would potentially solve this issue for some of these individuals, however having any student loan age cap will limit access to living cost loans at some point.</p>
<p>Promoting good relations among and between different age groups</p>	<p>Keeping the student loan age cap in place at 60 may have a positive impact on the relations among and</p>	<p>Increasing the student loans age cap is likely to have a negative impact on the relations among and between different age groups.</p>		<p>Increasing the student loan age cap means that older students will be able to take out the same living cost support package as younger students but may not have to pay the loan element back in full. This is because the terms and conditions of loan are the same for all students meaning that the repayment threshold has increased to £25,000 and there is a possibility that older students will not earn over the threshold for long enough to repay their loan. There are also difficulties related</p>

	between different age groups.			to arranging loan repayment for people who are retired and out of the PAYE system. This may result in a negative impact on the relations between different age groups as younger students could feel aggrieved that they are effectively paying for older student to take out loans that they have a lower possibility of repaying in full. It could also be argued that students aged 60 and over may feel that it is discriminatory to have a student loan age cap and that it is unfair that they are not allowed to access the same living cost support package as younger students. This could be seen as a negative impact on the relations between the different age groups.
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	Data gathered on DSA claims shows that there is a higher proportion of older student who have a disability. Therefore increasing the student loan age cap will have a positive impact on those with a disability as it will open up access to living cost loans for more of this group.			Older student who have a disability are able to access tuition fee support, means tested bursaries and are also eligible to receive support from the Disabled Students Allowance (DSA). Increasing the student loan age cap will extend access to living cost loans to an additional group of older disabled students and therefore this could be considered as having a positive impact.
Advancing equality of opportunity among	Increasing the student loan age	The current student loan age cap does limit equality of		Older students are more likely to be disabled than younger students and therefore any increase to the student loan age cap will have a positive impact on disabled students.

and between disabled and non-disabled people	cap would have a positive impact	opportunity for disabled students in the older age groups.		
Promoting good relations among and between disabled and non-disabled people			X	

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination		There are generally more women than men studying higher education courses at any one time, therefore any negative impacts associated with raising the student loan age cap will disproportionately impact women.		As there is a higher proportion of women studying in higher education in the 60+ age bracket, any changes to the student loan age cap will have a disproportionately greater impact on women (both positive and negative).
Advancing equality of opportunity			X	Men and women have equal opportunity when it comes to access to higher education and student support in general. Therefore, any changes to the student loan age cap will not affect equality of opportunity.
Promoting good relations between men and women			X	Men and women have equal opportunity when it comes to access to higher education and student support in general. Therefore, any changes to the student loan age cap will not affect relations between men and women.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	As this potential change in policy relates to students who are aged 60 and over then there is unlikely to be any impact on women because of pregnancy and maternity.
Advancing equality of opportunity			X	No evidence of differential impact.
Promoting good relations			X	No evidence of differential impact.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Insufficient data in this area to determine any positive or negative impacts.
Advancing equality of opportunity			X	No evidence of differential impact.
Promoting good relations			X	No evidence of differential impact.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
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Eliminating unlawful discrimination			X	Insufficient data to correlate sexual orientation and age in the student population and therefore we are not able to assess any positive or negative impacts.
Advancing equality of opportunity			X	No evidence of differential impact.
Promoting good relations			X	No evidence of differential impact.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Insufficient data to correlate race and age in the student population and therefore we are not able to assess any positive or negative impacts.
Advancing equality of opportunity			X	No evidence of differential impact.
Promoting good race relations			X	No evidence of differential impact.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Insufficient data to correlate religion or belief and age in the student population and therefore we are not able to assess any positive or negative impacts.
Advancing equality of opportunity			X	No evidence of differential impact.

Promoting good relations

			X	No evidence of differential impact.
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Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Insufficient data to correlate marriage or civil partnership and age in the student population and therefore we are not able to assess any positive or negative impacts.

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

<p>Have positive or negative impacts been identified for any of the equality groups?</p>	<p>The Scottish Government has received some correspondence from older students who have been impacted by the loan age cap, stating that they have been unable to financially support themselves through their higher education course and have had to withdraw. We can therefore consider that there has been a limited negative impact on those who are over the student loan age cap and have been unable to receive a living cost loan for their time in study.</p> <p>It is clear that any impacts will disproportionately affect individuals with a disability where there is a higher proportion in older students and also women who generally make up a larger proportion of the overall student population than men.</p>
<p>Is the policy directly or indirectly discriminatory under the Equality Act 2010³?</p>	<p>The overall policy of having any age cap which prevents those over a certain age being able to access living cost loans is directly discriminatory on the grounds of age.</p> <p>There is however no age barrier to accessing higher education and the Scottish Government's policy of free tuition for first degree students, as well as access to living cost grants/bursaries, does not have an age limit.</p> <p>Having an age cap on access to living cost loans can be considered justifiable as the Scottish Government has to ensure the overall affordability of the student support system in order to continue to offer free tuition. It is therefore considered proportionate and justifiable in these circumstances.</p>
<p>If the policy is indirectly discriminatory, how is it justified under the relevant legislation?</p>	<p>N/A</p>

³ See EQIA – Setting the Scene for further information on the legislation.

If not justified, what mitigating action will be undertaken?	N/A
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Describing how Equality Impact analysis has shaped the policy making process

The EQIA has highlighted that there may be some limited impacts on individuals who are currently out with the age cap. The lack of access to living cost loans for those aged 60 and over may have prevented some individuals from applying for higher education and may also have hindered some students in higher education who have struggled to support themselves without the additional resource from the loans.

The EQIA has informed the review of the student age cap policy for access to living cost loans. It has helped inform a number of options which will be considered by Scottish Ministers. Making no changes to this policy will also be considered as an option because we can consider the current policy as proportionate and justifiable in the circumstances as outline above.

The option of increasing the student loan age cap would involve a cost to the student support budget. This would be in the form of the additional cost of providing living cost loans to an increased number of students and also the cost of writing off these loans if the individuals are unable to repay their loans in full after completing their studies. The costs of the various options will be determined through financial modelling and help inform the advice that is put to Scottish Ministers.

Monitoring and Review

The student loan age cap is being considered as part of the consolidation of the student support regulations and also in the context of recent increases to the state pension age. Two of the options being proposed link the student loan age cap to the state pension age (one equal to it and the other proposing to keep a 5 year gap). If either of these options were to be taken forward then officials will review the student loan age cap in line with any further changes to the state pension age and take forward the necessary amendments to the student support regulations. Any future review should be carried out by the

Student Financial Support team within the Higher Education and Science Division.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Student Loan Age Cap Policy and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Roddy MacDonald

Position: Deputy Director, Higher Education and Science Division

Authorisation date: 4 May 2022