Age Cap on Student Maintenance Loans as Set Out in Regulation 3 of The Education (Student Loans) (Scotland) Regulations 2007 - EQIA

Scottish Government
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EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Age cap on student maintenance loans as set out in regulation 3 of the Education (Student Loans) (Scotland) Regulations 2007.
Summary of aims and desired outcomes of Policy	Relevant National Outcome: “We are better educated, more skilled and more successful, renowned for our research and innovation.” The current policy sets an age limit on eligibility for student living-cost loans to those who are over 16 and under 50, and for those aged 50 to 54 who intend to enter employment after their study. The aim of this policy is part of a wider policy to prioritise support, in the form of tuition fee grants, bursaries and living-cost loans, for students entering the labour market, and ensuring that students taking out a loan have a reasonable chance to repay some or all of that loan prior to retirement.
Directorate: Division: team	Advanced Learning & Science Directorate: Higher Education & Science Division: Student Support & Participation Team

Executive summary

A review of the age cap on student maintenance loan eligibility has been carried out, of which this EQIA forms a part. This is in the context of increasing life expectancy, later retirement, an increasing state pension age and changes to loan eligibility for those aged 55 and over elsewhere in the UK.

The EQIA considered evidence from published statistics, management information from the Students Awards Agency Scotland (SAAS) and stakeholder engagement with relevant groups such as Age Scotland and the National Union of Students (NUS) Scotland.

The EQIA found that there was limited evidence to demonstrate a positive or negative impact of this policy on the protected characteristic of age. Some anecdotal evidence and individual cases did suggest there was a negative impact on those over 50, particularly those aged 55 and over, and that this policy did not promote equality of opportunity.

It was noted that due to a higher proportion of women in higher education, and the greater incidence of disability in the older population, any policy which impacts on older age groups is likely to be disproportionately felt by these two groups.

The Scottish Government accepts that having an age limit on any policy is inherently directly discriminatory, however it believes that having an age cap set at 55 is a proportionate and justifiable position given the policy to ensure a fair and proportionate approach to the issue of student support which recognises the needs and desires of students of all ages to study courses of higher education as well as the financial constraints on the Scottish Government and the changing demographics and participation in the labour market.

The EQIA informed the policy options proposed as part of the Scottish Government's review of the age cap policy, and

ISBN: 978-1-78652-521-5 (web only)

APS Group Scotland
PPDAS80810 (10/16)

recommends reviewing this policy and refreshing the EQIA whenever the state pension age is reviewed. It also recommends that steps are taken with stakeholders to further consider the participation of older age groups in higher education and the demand for student maintenance loans from such students.

Background

Student maintenance loans were first introduced in 1990 and were administered through the Student Loan Company, in conjunction with colleges and universities. The Education (Student Loans) Regulations 1990 governed the scheme and age was one of the conditions of eligibility - at that time students had to be under the age of 50 to be eligible.

The loan was introduced to supplement the student maintenance grant, not replace it. These loans, know as 'mortgage style' loans, were not means tested and were paid back by the student via direct debit in 60 monthly instalments, so worked much more like a commercial loan than the current student maintenance loan.

The current type of student maintenance loans are known as ‘income contingent’ loans and were introduced in academic year 1999-2000 for full-time undergraduate students. They replaced the mortgage style loans. Income contingent loans were intended to partly replace maintenance grants as the main source of student living-cost support, so played a different role to the mortgage style loans; hence the different terms and conditions attached to them.

When income-contingent loans were first introduced, the age cap was 55 and outstanding loans were written off once a student reached the age of 65.

The age cap policy was reconsidered in 2006, when the rest of the UK chose to increase their age limit for loans from 55 to 60. However, a decision was made at that time to keep the cap at its

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current level in Scotland due to the increased costs that would be incurred by raising it. At that point the write off period was changed from loans being written off at age 65 to loans being written off 35 years after becoming eligible to start repayments.

The context for reviewing this policy is that of an ageing population, removal of a mandatory state retirement age, people working longer and the state pension age increasing to 67 initially and 68 in the coming decades. Such students are more likely to be living and working for longer and may want to retrain or upskill in later life through a course of higher education. It is also likely that these students will have longer in employment to pay back their loans than students aged 55+ would have done when the current age cap was originally introduced with income contingent student loans in 1999.

The Scope of the EQIA

This policy has direct relevance to the protected characteristic of age. Therefore, given the potential impact of the age cap on older age groups, a rigorous EQIA was carried out to attempt to identify what impacts there might be and what, if any, mitigation was required. This was done bearing in mind that there were significant evidence gaps around trying to quantify what demand there might be for higher education from students aged 55 or over if they were able to access student maintenance loans. It is possible to measure the current participation in higher education of older age groups but difficult to extrapolate from that the numbers that might have participated if student loans were more widely available to those age groups.

In general more women than men participate in higher education, and as the incidence of disability is higher in the older population, these two protected characteristics were also in scope for this EQIA.

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Key Findings

It is clear that access to higher education is not limited by age. Students of any age are able to study courses of higher education and apply for tuition fee support, bursaries and discretionary funds and the evidence shows that they do so. Student maintenance loans have an age cap policy in place as part of a wider requirement to ensure that the student support system is affordable and effective and meets the Scottish Government priorities of ensuring tuition is free for all Scottish domiciled students, ensuring that bursary support can be retained for students with the lowest parental/household incomes and ensuring that the whole system remains affordable in the long term.

There is limited evidence of any negative impact of the age cap policy on older students, however there is some anecdotal evidence and a few individual cases suggest that there is potentially a negative impact on those aged 55 and over.

In addition, the EQIA demonstrated that from published statistics, management data from SAAS and from stakeholder engagement with key groups such as Age Scotland, NUS Scotland, the Scottish Older People's Assembly, and the Scottish Widening Access Partnership (SWAP) there is very little evidence available to quantify what the demand would be for loans for those aged 55 and over if available, and what the demand would be if the age cap were to be increased. It is difficult therefore to evidence any potential positive or negative impacts, and what the scale of those impacts might be. From anecdotal evidence, such as the fact that Age Scotland had not encountered anyone in their continuous stakeholder engagement who had raised this issue, and it was not something that NUS Scotland had considered, as well as SWAP enquiries, we conclude that any potential impacts of changing the policy (positive or negative) are small.

Any cap on eligibility for a policy set on the basis of someone’s age is inherently discriminatory on the basis of age. The

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question is whether this is proportionate and justifiable. Given wider considerations about the affordability of the student finance system, and the decision of the Scottish Government to focus on providing free tuition for first degree students which benefits those of all ages; having an age cap, which is currently set at age 55, is proportionate and justifiable.

Increasing the age cap would have a positive impact on equality of opportunity. As an illustration, a person aged 55, who has never had the opportunity to study higher education, and who has perhaps been made redundant but intends to work for at least another decade, may need to retrain. That person is currently able to access a higher education course, with tuition fees paid and with bursary, additional living-costs grants (i.e. Lone Parent Grant, Dependant Grant and Disabled Students' Allowance) and discretionary fund support. In this respect there is equality of opportunity across the age groups.

However, that person could not access a student maintenance loan as someone below 55 could which, depending on their financial circumstances, could limit their ability to study full-time.

Older students, whatever level the age cap is set at, will generally repay their loan for a shorter period of time given that the terms and conditions of the loan, which are are the same regardless of the age at which the loan is taken out, only require individuals to repay their loan whilst they are working and earning over the repayment threshold (currently £17,335). As the majority of students are in younger age groups, there is the potential, that increasing the age cap could be seen to disproportionately advantage older students and negatively affect relations between this age group and younger students. If the age cap is increased, this may exacerbate the situation as older students will be able to access the same level of support on the same terms as younger students, but be much less likely to pay it back in full given the lower number of older people in

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employment and the barriers to the repayment of loans once someone has retired, is not receiving a salary, is out of the PAYE system, and faces the possibility of their income dropping below the repayment threshold.

Increasing the age cap may only exacerbate this perception despite the reality that people are likely to be working longer than when the age cap was first introduced. Leaving the age cap at its existing level may have a positive impact on promoting good relations between different age groups. Conversely, older age groups may perceive it as unfair that younger age groups are able to access student loans whereas, currently, those aged 55 and over are excluded.

Recommendations and Conclusion

In conclusion, it is very difficult, given the lack of evidence of demand for student maintenance loans from those currently outwith the age cap and the lack of evidence of those who might have taken out a loan if one had been available, to say whether or not this policy has had any significant impact on the equality groups in question. The limited number of cases that have come to our attention, and some of the anecdotal evidence suggests there may be some small scale negative impacts on those who fall outwith the current age cap and wish to access a student loan.

Any impacts may disproportionately affect those with a disability and women who make up a greater proportion of students than men.

While having an age limit on any policy is inherently directly discriminatory, the Scottish Government believes that setting the age cap at 55 is a proportionate and justifiable position given the policy to ensure a fair and proportionate approach to the issue of student support which recognises the needs and desires of students of all ages to study courses of higher education as well as the financial constraints on the Scottish Government and

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the changing demographics and participation in the labour market.

The EQIA has highlighted a lack of evidence available about potential demand for student loans from older age groups. This has led to an awareness on the part of at least one of our key stakeholders, NUS Scotland, that it needs to address this in its research on student support. It has highlighted the difficulties in considering potential demand for student maintenance loans at all levels of study and measuring the number of people who might have pursued full-time undergraduate study if such loans had been available. This was considered carefully as part of the financial modelling of changes to the age cap in the wider policy review.

The EQIA informed the development of a range of options which were considered by the Scottish Government as part of the wider policy review. Making no change was an option due to the conclusion that the policy is justified and proportionate, and due to the fact that this option gives regard to promoting good relations between the different age groups. Options which include raising the age cap would mitigate the perceptions of inequality of opportunity between the two age groups somewhat, although retaining an age cap at some level is likely to be necessary given financial constraints.

Given that one of the drivers of the policy review was an increase in the state pension age, the policy should be reviewed each time the state pension age is reviewed (likely to be on a 5 yearly basis) and, at that point, a refresh of the EQIA should be carried out to measure any changes in the baseline information on participation in higher education by those in older age groups, and what, if any, impact the policy option selected by the Scottish Government following its 2015 review has had.

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This EQIA refresh will again be carried out in consultation with stakeholders to try to address the issue of demand for student loans from those outwith the age cap. The review will be carried out by the Student Support and Participation team within the Higher Education and Science Division of the Scottish Government.

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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78652-521-5 (web only)

Published by The Scottish Government, October 2016

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS80810 (10/16)