Universities UK update 16 August 2016

- **HM Treasury announcement on Horizon 2020 and structural funding**

UUK have been urging the Government to address uncertainty and provide stability with regards to Horizon 2020 funding and to reverse the freeze on EDRF programmes. They have also shared evidence on the growing impact of the vote to leave the EU on universities, particularly research and innovation.

On 13 August the Chancellor issued a statement that UK businesses and universities should continue to bid for competitive EU funds while we remain a member of the EU and we will work with the Commission to ensure payment when funds are awarded. The Treasury will underwrite the payment of such awards even when specific projects continue beyond the UK’s departure from the EU.

The Chancellor also announced that all European Structural and Investment Funds (ESIFs) projects signed before the Autumn Statement will be fully funded, even when these projects continue beyond the UK’s departure from the EU.

- **EU student fees**

UUK have obtained legal advice from Pinsent Masons on the legal implications of universities offering different fees for EU and international students, and the potential illegality under the Equality Act 2010 which makes it unlawful to discriminate between students on the grounds of their race/nationality.

This issue arises at the point at which the UK actually leaves the EU, which (depending on when Article 50 is triggered) may coincide with years 3, 4 or 5 of longer courses of study.

Currently, it is not unlawful to charge different fees to EU and international students because the Equality Act 2010 allows an exemption where differential terms are permitted under other legislation.

Pinsents’ legal advice dated 1 August 2016 explains that when the UK leaves the EU, legislation will remain in force unless repealed. However, they consider it likely that the relevant regulations will be repealed, which would then remove the exemption in the 2010 Act and make differential fees between EU and international students unlawful.

Their legal advice dated 12 August 2016 covers the possibility of universities addressing this issue by offering bursaries or grants to EU students to cover any increase that the universities are obliged to charge to align the fees of former EU and international students. The advice suggests that this might work, if the fees were charged on the basis of residency rather than nationality, which would mean that the discrimination was indirect not direct and therefore capable of objective justification. Universities would however need to take separate legal advice on this.

Given the significance and urgency of these issues, UUK are asking government to guarantee that any future changes to existing regulations governing student fees and loans implicating EU students would contain specific provisions to:

- enable universities to charge ‘home’ fees to EU students who will already be on a programme of study for the duration of that course, and
- enable these students to access student finance for the duration of their course (extending the reassurance already given by government for students commencing courses in 16/17)
UUK have proposed how these guarantees could be provided by government through the creation of a transition period for EU students starting courses in the 2016/17, 2017/18 and 2018/19 academic years.

They are also asking government to confirm that universities will continue to be permitted to charge EU students commencing a course in 2016/17, 2017/18 and 2018/19 the same fees as home students for the duration of their course without risk of legal challenge.

- **Ministerial responsibility for education exports**

  Following the creation of the new Department for International Trade and the appointment of Liam Fox MP as Secretary of State, Mark Garnier MP – an important contact- has been appointed to lead on ‘high value export and investment campaigns’ across a number of sectors, including education and aerospace.

- **Meetings with Home Office and HM Treasury**

  UUK has met with Home Office officials to build links with the EU Migration Policy Team on Brexit, to highlight the importance of EU students and staff, to explore how UUK can inform their thinking, and to get a clearer sense of their current activities and priorities in anticipation of Article 50 being triggered at the end of 2016.

  The Home Office is exploring a range of possible policy options for future EU migration. These will range from something close to the existing freedom of movement system (with one or two additional requirements) to fully absorbing all EU migration into the visa routes currently used by non-EU migrants. The Home Office is keen to obtain input from UUK in exploring different options.

  A meeting with Treasury officials also took place. In addition to the need to provide guarantees on EU student fees and loans in the short to medium terms, it discussed the latest evidence of the impact of the vote to leave the EU on universities and the urgent need for a government commitment to guarantee to support the UK’s full participation in Horizon 2020 until the programme finishes on 1 January 2020 and the need to resolve the current freeze on certain ESIF projects that have been approved but not yet countersigned.