



## BRIEFING PAPER

Number 7653, 12 July 2016

# Freezing the student loan repayment threshold

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## Summary

In December 2010 the Browne Review of higher education recommended making changes to the higher education funding system including removing the cap on tuition fees and raising the repayment threshold for student loans to £21,000. In response to the Browne Review in September 2012 the Government made significant changes to the student finance system: tuition fees for full-time undergraduate degrees were raised to £9,000 per year, the loan repayment threshold was raised to £21,000 and a new tiered rate of interest was introduced for student loans.

David Willetts the Minister for Universities and Science in the 2010 coalition Government introduced these changes in a statement on 3 December 2010; in this statement he said that the loan repayment threshold would be '**increased periodically to reflect earnings**'.

In 2015 the Government issued a consultation on freezing the loan repayment threshold for five years. This was deemed to be necessary to keep higher education on a sustainable footing as the proportion of borrowers liable to repay when the £21,000 threshold came into effect in April 2016 was lower than was expected when the policy was initially introduced. The consultation stated that the Government's preferred option was to freeze the threshold for all post 2102 loans.

Around 84% of respondents to the consultation were against freezing the repayment threshold for all post 2012 borrowers.

However in November 2015 the **Government announced in the Spending Review that it had decided to freeze the repayment threshold for all post-2012 loans until at least April 2021.**

# 1. Background: post-2012 student loans

In September 2012 the following changes were made to the student finance system:

- the **tuition fee cap** for full-time undergraduate degrees was raised to £9,000 per year
- a new **variable, tiered rate of interest** was added to the income-contingent loans and,
- the **repayment threshold for loans was raised to £21,000** per year.

The new system was intended to be more progressive than the old system. A report by the Institute for Fiscal Studies<sup>1</sup> agreed that the system was more progressive, but it also said that the new arrangements were complicated.

The changes to the repayment threshold and interest rates were brought in by the [\*Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) Regulations 2012\*](#), which came into force on 18 June 2012.

The issue of student loan repayment is now receiving attention for two main reasons. Firstly because in November 2015 it was announced that the student loan repayment threshold would be frozen for five years - originally it was said that this would rise periodically in line with earnings and secondly because the first students to take out the post 2012 loans in September 2012 have graduated and their loans fell into repayment status in April 2016 – these students are now concerned about the interest rates applied to these loans..

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<sup>1</sup> IFS Briefing Note 113, [\*Higher Education Reforms: Progressive but Complicated with an Unwelcome Incentive\*](#), December 2010

## 2. Student loans: terms and conditions

When students take out a loan they are advised to make sure that they carefully read and understand a booklet by Student Finance England (SFE) called *Student loans - A guide to terms and conditions*, these booklets are available online and in hardcopy. The booklet sets out the terms and conditions that students agree to when they take out a loan. The relevant booklet for student starting courses in September 2012 was [Student loans – a guide to terms and conditions 2012/13](#). On page 3 the booklet states that the terms of loans may change:

'the regulations may change from time to time and this means the terms of your loan may also change'.

The booklet also states that students should keep a copy of the booklet until they have repaid their loan:

Please keep a copy as it **provides information that you will need until you have finished repaying your loan**. Please note: as certain aspects of this guide depend on new legislation which is not yet passed by Parliament, this guide may be updated from time to time, and it is your responsibility to check the website hosting this guide periodically to ensure you have the most up-to-date version (p2)

### 2.1 Repayment of student loans

Student loan repayments commence the April after a student has graduated. Repayments are income –contingent and students start repaying their loans when they are earning over a threshold – which for post-2012 loans is £21,000 per year. Students earning over the threshold repay at a rate of 9% of their income over threshold per year. Repayments are taken out of graduates' earnings via the PAYE system.

Post 2012 loans are referred to by the Student Loans Company (SLC) as Plan 2 loans. The Student Loans Company (SLC) website has information on how students can work out their repayments for Plan 2 loans at, [Plan 2 - How repayments are calculated](#), - this webpage shows students how much they can expect to repay:

#### **How much you will repay**

Your employer will take repayments from your salary during any pay period where your earnings before tax are over the weekly or monthly threshold.

By pay period, we mean each time you receive your salary. This could be every:

Week

Four weeks

Calendar month

The earnings threshold is:

£403 a week

£1,750 a month

## 6 Freezing the student loan repayment threshold

£21,000 a year

You pay 9% of your income over the threshold

### **How to work out your monthly repayment amount**

Take away £21,000 from your annual salary before tax

Work out 9% of the remainder

Divide that figure by 12

Round down to the nearest pound

So your monthly student loan repayment would be £67.

Example repayment amounts

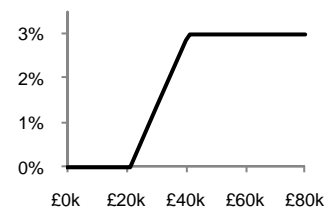
<b>Annual income before tax</b>	<b>Monthly salary</b>	<b>Monthly repayment</b>
Up to £21,000	£1,750	£0
£22,000	£1,833	£7
£25,000	£2,083	£30
£30,000	£2,500	£67
£35,000	£2,916	£105

### 3. Interest rates on post-2012 student loans

In 2012 the tuition fee cap was raised to £9,000 per year and a new **variable, tiered rate of interest** was introduced which was intended to be more 'progressive' than under the previous system. The rate varied from inflation only (0% real interest) to inflation plus 3 percentage points (real interest rate of 3%). This applied to new English students starting from 2012.

Under the new system **interest rates can vary across the life of the loan** depending on the situation of the student/graduate - so interest is charge at one rate **while the student is studying**, another rate when they **graduate but are under the repayment threshold** and another variable rate when they earn **over the threshold** depending on income. It could be argued that this has created a somewhat complicated interest rate system.

The rate of *real* interest rises from 0% for those earning below the repayment threshold of £21,000 to 3.0% at incomes above a higher threshold (£41,000 in 2016). This is illustrated opposite. The variable rate affects higher earners to a greater extent, making the expected value of lifetime repayments somewhat more progressive across the graduate population. It means that any graduate making repayments will see their outstanding debt fall in *real* terms. However, a graduate with a £30,000 loan would need to earn around £42,000 in their first year of repayments (2016-17) to see the outstanding balance fall in cash terms.<sup>2</sup>



The changes to the repayment threshold and interest rate were brought in under the [Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) Regulations 2012](#), which came into force on 18 June 2012. The interest rate issue is now receiving attention because the first students to take out these loans in September 2012 have graduated and their loans fell into repayment status in April 2016.

Post 2012 loans are referred to by the Student Loans Company (SLC) as Plan 2 loans, information on these loans and on the interest rate system is clearly set out on the SLC website at [Student loan repayment](#) – this is set out below:

#### Plan 2 - Interest rates

You're charged interest from the day your first payment is made until your loan is repaid in full. Interest is added to the total amount you owe every month.

The interest rate is based on the UK Retail Price Index (RPI) and will vary depending on your circumstances.

<sup>2</sup> Assumes a debt at the statutory repayment date of £33,500 after 3% real interest applied to loan on top of the inflation linked rate of 2.75%.

## 8 Freezing the student loan repayment threshold

The interest rate is updated once a year in September, using the RPI from March of that year.

<b>Your circumstances</b>	<b>Interest rate</b>
Whilst studying and until the April after leaving the course	RPI, plus 3% (3.9% for 2015/16)
From 6 April after leaving your course until the loan is repaid in full	Variable rate dependent upon income. RPI (0.9%) where income is £21,000 or less, rising on a sliding scale up to RPI+3% (3.9%) where income is £41,000 or more
If you don't respond to our requests for information or evidence	RPI + 3%,(3.9%) irrespective of income, until we have all the information we need

### **Historical Interest Rate**

The rates in the below table are for Plan 2 loans only and, unless otherwise indicated, apply to the period 1st September to 31st August for the years advised.

<b>Year</b>	<b>Interest rate</b>
2012/13	RPI (3.6%) + 3% = (6.6%)
2013/14	RPI (3.3%) + 3% = (6.3%)
2014/15	RPI (2.5%) + 3% = (5.5%)
2015/16	RPI (0.9%) + 3% = (3.9%)

The interest rate on student loans was explained in a PQ on 15 December 2015:

**Students: Loans:** Written question - 18798

[Dr Tania Mathias](#)

To ask the Secretary of State for Business, Innovation and Skills, what the rationale is for setting the interest rate on the repayment of student loans under the new system at three per cent.

[Joseph Johnson](#)

Answered on: 15 December 2015

Interest rates on student loans vary according to a number of factors, including a borrower's level of earnings, and whether they remain in contact with the Student Loans Company to ensure they are repaying when they are eligible to do so.

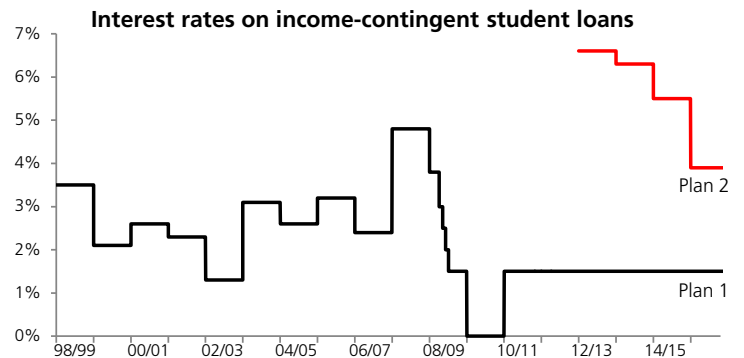
The maximum interest rate for the post-2012 system is the Retail Price Index (RPI) figure plus 3%. The maximum rate applies whilst the borrower is studying; is the maximum interest rate for those borrowers earning £41,000 and over; and is the default interest



rate for those borrowers who fail to keep in touch with the Student Loans Company.

Once a borrower is due to repay, a variable rate of interest will be charged, which is dependent upon income. Borrowers with an income of £21,000 or less will accrue interest at RPI. For a borrower with income greater than £21,000, a real rate of interest will be tapered in, reaching a maximum of RPI plus 3% at an income of £41,000 or more.<sup>3</sup>

The chart opposite looks at changes to interest rates over a longer period of time. Plan 1 loans are income contingent loans for pre-2012 students. Plan 2 are loans for post-2012 students.



## 4. Student loans and RPI

It is stated on the SLC website that the interest rate on student loans is set using RPI:

### What is RPI?

RPI - The Retail Price Index, RPI, is a measure of UK inflation. It measures changes to the cost of living in the UK. The UK government uses the rate of RPI for many purposes, including setting the interest rate charged on student loans.

The use of RPI rather than CPI was raised in a PQ in June 2016:

**Students: Loans:** Written question - HL427

Asked by [Lord Myners](#)

To ask Her Majesty's Government whether they will consider linking the interest rate on student loans to the Consumer Price Index rather than the Retail Price Index.

Answered by: [Baroness Neville-Rolfe](#)

Answered on: 16 June 2016

The Government has no plans to link the interest rate on student loans to the Consumer Prices Index, rather than the Retail Prices Index. The Retail Prices Index has been used as the basis for calculating the interest rates applied to income-contingent student loans since they were introduced in 1998<sup>4</sup>

RPI has been used as the measure of inflation for student loan interest rates since loans were introduced in 1990. Pre-2012 loans were set at RPI (0% real interest). The exceptions being i) Since the bank base rates were cut (at the end of 2008 to present) which, under the legislation covering pre-2012 loans, has meant a lower interest rate of the base rate +1%; and ii) in 2009/10 when RPI fell –inflation was negative- and a 0% rate applied. You can

<sup>3</sup> PQ 18798 [[Students: Loans](#)], 15 December 2015

<sup>4</sup> PQ HL427 [[Students: Loans](#)] 16 June 2016

## Viral email

In May 2016 a student started a viral email about the mis-selling of student loans. In the email a student complained that their student loans had been sold off to a private company which had increased the interest on his loan. The email was factually inaccurate in several respects, for instance loans have not been sold off and the interest rate is the original rate that was set out by the government for all 2012 loans. The email was discussed in many newspaper articles:

- [“Graduate whose loan grew by £1,800 in one year says students were misled”](#), *The Guardian*, 25 May 2016.
- MoneySavingExpert.com [The viral letter about mis-sold student loans due to retrospective interest hikes is well meaning, but wrong](#), 26 May 2016
- [“Student loans: the next big mis-selling scandal?”](#) *The Guardian* 28 May 2016
- [“My student loan was mis-sold, says graduate”](#), *BBC News* 26 May 2016

The viral email raised the profile of the issue of interest rates on student loans.

## 5. Freezing the student loan repayment threshold

On 3 November 2010, the then Minister for Universities and Science, David Willetts, made a statement, [Higher Education Funding](#), in which he announced the new post-2012 student finance system. In this statement he said that the student loan repayment threshold would increase in line with earnings:

We are also proposing a more progressive repayment structure. At present, graduates start repaying when their annual incomes reach £15,000. **We will increase the repayment threshold to £21,000, and will thereafter increase it periodically to reflect earnings.** The repayment will be 9% of income above £21,000, and all outstanding repayments will be written off after 30 years. Raising the threshold will reduce the monthly repayments for every single graduate.<sup>5</sup>

The changes to the repayment threshold were brought in under the [Education \(Student Loans\) \(Repayment\) \(Amendment\) \(No. 2\) Regulations 2012](#). Regulation 11 states that the repayment threshold for a borrower with a post-2012 student loan is £21,000, however the regulation **does not** include a provision to uprate the threshold.

Subsequently changes to the student loan repayment threshold were announced in the Summer Budget in July 2015:

To ensure that the long term costs of the student loan book remain affordable and transparent, **the government will consult on freezing the loan repayment threshold for five years** and review the discount rate applied to student loans and other transactions to bring it into line with the government's long-term cost of borrowing.<sup>6</sup>

### 5.1 Consultation on freezing the repayment threshold

A consultation on the proposals to freeze the repayment threshold was launched in July 2015 – [Consultation on freezing the student loan repayment threshold](#). The government gave the rationale for the change of policy on page 3:

To keep higher education on a sustainable footing we must ask future graduates to meet more of the costs of their studies once they are earning

[...]

Updated forecasts based on the OBR's latest projections for the macro-economy show the proportion of borrowers liable to repay when the £21,000 threshold takes effect in April 2016 is lower than was expected when the policy was initially introduced. The threshold is therefore higher in real terms than was originally intended, which increases the long-term costs of the higher education system to the tax payer.

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<sup>5</sup> [HC Deb 3 November 2010 c924](#)

<sup>6</sup> HM Treasury [Summer Budget 2015](#) HC 264 July 2015 p59

## 12 Freezing the student loan repayment threshold

The Budget on 8 July contained a number of announcements related to higher education, including an intention to consult on keeping the repayment threshold at the same level for five years. We recognise that this proposal represents a change from when the policy was first introduced. We are consulting to gather views on the new proposal to ensure higher education remains open and affordable to students, graduates and fair to all taxpayers in the long term.

The consultation document set out the options to be considered:

### The Options

**Option 1: The Government's preferred option is to freeze the threshold for all Plan 2 loans, existing and new.** The first borrowers with Plan 2 loans start to repay under statutory terms in April 2016, when the threshold will be £21,000. Under this proposal the threshold will remain at this level for five years, for all English borrowers – new and existing. The threshold will be reviewed from April 2021. This option will reduce government debt the most whilst still ensuring those who do not earn high wages are protected. This is the option that makes the largest savings. It will still ensure that higher education is free at the point of use, and that repayments are affordable for all graduates.

**Option 2: The second option is to freeze the threshold for new borrowers only.** This will mean that only borrowers starting courses in academic year 2016-17 and subsequent years will be affected. These borrowers will generally expect to start repayment in April 2020. The threshold will be frozen from April 2020 for five years at the same level that the existing post-2012 borrowers' loan threshold has reached by then. This option reduces government debt, but considerably less than option 1. It constitutes a new student loan plan, and therefore has operational demands and administrative costs associated with it.

If no changes are made to the current policy, raising the threshold by earnings from April 2017 for all borrowers, there will be no impact on borrowers. This does not contribute to debt reduction and will not help meet the current fiscal pressures. It will also mean taxpayers having to bear more of the burden for those benefitting from higher education.<sup>7</sup>

On 25 November 2015, the Government published its [response](#)<sup>8</sup> to the consultation. The overview of responses on p5 of the document showed that 84 percent of respondents to the consultation were against freezing the repayment threshold for all post 2012 borrowers.

However on p 33 the Government stated that it had decided to freeze the repayment threshold for **all post-2012 loans until at least April 2021**:

The Government has decided that the threshold freeze will be implemented for all borrowers with post-2012 loans. The repayment threshold will be £21,000 at April 2016, and it will not be uplifted until at least April 2021, when the threshold will be reviewed. The 'upper' interest threshold of £41,000 will be frozen

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<sup>7</sup> BIS [Consultation on freezing the student loan repayment threshold](#), July 2015 p6 and 7

<sup>8</sup> BIS [Freezing the student loan repayment threshold Government response to the consultation on freezing the student loan repayment threshold](#), November 2015

at the same time to ensure that variable interest rates applied for those earning between £21,000 and £41,000, remain unaltered.<sup>9</sup>

## 5.2 Impact of the freezing the repayment threshold on borrowers

The Government's response to the consultation provided an analysis of the impact of freezing the threshold for all post-2012 borrowers (pages 22-26). It stated that:

All borrowers whose earnings are above the repayment threshold will pay slightly more. The increase is expected to be around £6 per week (in nominal terms) by 2020/21 for all borrowers in repayment, or £306 a year. Graduates earning under £21,000 will not be affected by the change in the threshold.

[...]

Looking across average lifetime earnings of graduates – taking account of different earning pathways and time out of employment – existing borrowers with lifetime average earnings between £20,000 and around £35,000 are most affected by this change, and are expected to make an extra £4,000 of repayments (lifetime NPV) over the 30 years of their loans.

[...]

New borrowers with average lifetime earnings between £20,000 and around £30,000 are most affected by the change, and are expected to make around an extra £4,000 of repayments (lifetime NPV) over the 30 years of their loans. New borrowers with average lifetime earnings between £20,000 and around £30,000 are most affected by the change, and are expected to make around an extra £4,000 of repayments (lifetime NPV) over the 30 years of their loans. These additional lifetime payments compare to an estimated average lifetime net benefit, under the current system, of going to Higher Education of over £100,000.

Under the current system the average lifetime loan repayments (lifetime NPV) for 2012 entrants will be around £22,700, rising to around £25,500 with the threshold freeze (in 2016 terms). The average lifetime repayment for new borrowers is estimated to be around £24,500 under the current system and £27,800 with threshold freeze (in 2020 terms).<sup>10</sup>

Further detail can be found on pages 22 to 26 of the consultation response.

*Student Loan Statistics* (especially section 1.3) looks at the potential impact of freezing the repayment threshold on graduates and the public finances. In short freezing the repayment threshold:

- increases graduate loan repayments and hence the likelihood that graduates will repay in full
- has a proportionately larger impact on repayments by *graduates* with lower lifetime earnings.

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<sup>9</sup> BIS, [Freezing the student loan repayment threshold: Government response to the consultation on freezing the student loan repayment threshold](#), November 2015, p33

<sup>10</sup> Ibid, pp22-6

## 14 Freezing the student loan repayment threshold

- is also likely to have a greater impact on *students* from poorer backgrounds as there is some link between .

The combined impact of ending grants (from 2017) and freezing thresholds is complex and will vary considerably *within* students from lower income households as well as *between* this group and those from more affluent backgrounds.

The IFS has estimated that a five year threshold freeze would increase average repayments by almost £4,000 on top of the increase due to the loss of grants (around £5,500 in total). It is middle income earners who they expect to be hardest hit by the threshold freeze. Those graduates who earn enough to make some repayments, but not enough to repay their loans in full under the current system.<sup>11</sup>

Key estimates of the impact of freezing the threshold, published as part of the Government's [equality analysis](#), for the graduate population as a whole were:

- An extra 9% of graduates will make some repayments
- A 'median borrower' will repay around £300 more per year, those on higher earnings will face the same overall annual increase in repayments
- The average present value of additional lifetime repayments will be in the £2,600 to £2,800 region
- The proportion of post-2016 borrowers repaying their loans in full will increase from 38% to 45%
- The largest increase in lifetime repayments in absolute terms is among middle earners (for graduates)
- The largest increase as a proportion of earnings is among lower earners

The analysis by 'protected characteristics' concluded that the average increase in repayments would be greater among women than men. There was no difference in impact by age. The evidence for disabled graduates and those from a minority ethnic group was less robust, but, when taken together, suggested that both groups earn less than other graduates are therefore more likely to be among middle earners –those who will face the largest absolute increase in repayments.

The report went on to consider the possible impact on participation among these groups. It cited (forthcoming) research which finds that the level of the threshold is viewed as one of the most important features of the student finance package. Potential students from lower socio-economic groups, women and those aged over 21 were more likely to say that the threshold was an important element in their decision to apply to university. However, the report says the research does not distinguish between whether the existence or the level of the threshold that is important. A hypothetical increase in the threshold had "...only a small impact" on intention to go to university, although it

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<sup>11</sup> [Analysis of the higher education funding reforms announced in Summer Budget 2015](#), IFS

was higher among women, ethnic minorities, disabled people and those from lower socio-economic groups. It concluded overall:<sup>12</sup>

Overall, our judgement is that across most parts of the student population it is likely that while the change in repayment threshold may have a negative impact on participation, it is likely to be very small.

The following on women and older students:<sup>13</sup>

...within what we judge to be a low overall risk, the risks to female participation are slightly higher than they are for males.

...

...effectively increasing the cost of higher education (through freezing the threshold) is more likely to have a negative impact on older people's higher education participation compared to their younger counterparts.

Conclusions for disabled people and ethnic minorities were the same:<sup>14</sup>

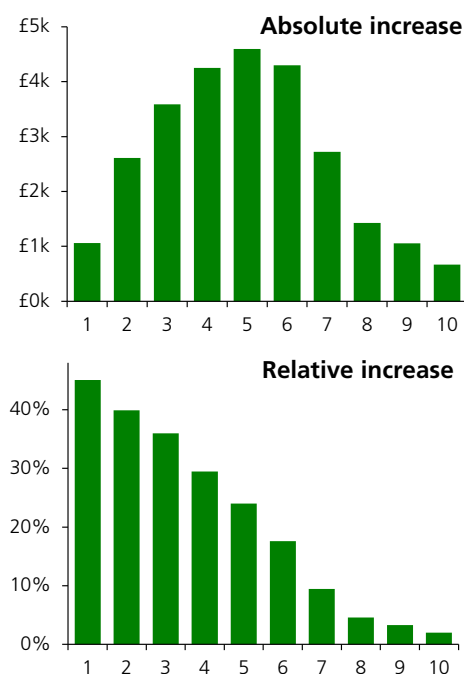
Effectively increasing the cost of higher education for students from this group (through freezing the threshold) could potentially have a negative impact on their participation in higher education as the perception of increased debt could affect their participation decision. However, in the context of the evidence discussed above, we believe this risk is likely to be relatively small.

The Government accepts that freezing the threshold presents an 'elevated' risk to participation among women, mature students, disabled people and minority ethnic groups. It is said to be low and uncertain in each case

## Impact of freezing the threshold by level of graduate earnings

The table below and charts opposite show the results of Government modelling of what they expect the additional repayments will mean by decile (10% band) of lifetime earnings. It is important to note that this is the breakdown by what *graduates* earn not household income of students which was not modelled and would be much harder to do so.

These clearly show that middle earning graduates are expected to have to make the largest increase in repayments in absolute terms, but the lowest earning graduates will see the greatest impact as a proportion of their lifetime earnings. All figures in the table are presented in net present value (discounted) terms.



<sup>12</sup> *ibid.* p.61

<sup>13</sup> *ibid.* p.62

<sup>14</sup> *ibid.* p.63

## 16 Freezing the student loan repayment threshold

### Modelled impact of freezing the repayment threshold on all borrowers

£ 2016 values

Deciles	Average Annual Lifetime Earnings	Lifetime repayments		Increase in lifetime repayments	
		Current system	Freeze threshold for 5 years from 2016	£	%
1	£7,269	£2,353	£3,413	£1,060	45%
2	£15,267	£6,540	£9,149	£2,609	40%
3	£20,023	£9,980	£13,569	£3,589	36%
4	£23,514	£14,413	£18,662	£4,249	29%
5	£26,599	£19,162	£23,756	£4,594	24%
6	£29,774	£24,441	£28,741	£4,300	18%
7	£33,135	£28,883	£31,606	£2,723	9%
8	£37,184	£31,010	£32,435	£1,425	5%
9	£43,332	£32,065	£33,118	£1,053	3%
10	£57,683	£33,041	£33,708	£667	2%
<b>All</b>	<b>..</b>	<b>£20,189</b>	<b>£22,816</b>	<b>£2,627</b>	<b>13%</b>

Source: Freezing the student loan repayment threshold Equality analysis, BIS (figures 11 and 12)

## 5.3 Retrospective nature of the change

It has been argued that freezing the threshold for **all post-2012 loans** is retrospective and therefore unfair, or possibly illegal.

As mentioned in section 2 when students take out a loan they are advised to read *Student loans - A guide to terms and conditions*. The booklet sets out the conditions that students agree to when they take out a loan - the booklet for students taking out loans in 2012 was [Student loans - A guide to terms and conditions 2012/13](#).

On page 3 the guide says that loan terms may possibly be changed over the life of the loan:

You will find full details of the conditions for receiving student loans in the relevant Student Support Regulations. The conditions for repaying Income Contingent Loans are included in the following regulations (which may be replaced by later regulations).

For England and Wales, the Education (Student Loans) (Repayment) Regulations 2009 No 470 and subsequent amending regulations. 2012/1309 for those on Repayment Plan 2.

For Northern Ireland, the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2009 as amended.

For Scotland, the Repayment of Student Loans (Scotland) Regulations 2000 as amended.

You can read these regulations online at [www.legislation.gov.uk](http://www.legislation.gov.uk) or order them from The Stationery Office (TSO) Ltd (phone order line 0870 600 5522). Or order them online at [www.tsoshop.co.uk](http://www.tsoshop.co.uk).

This guide provides information about the current terms of your loan and repayment.

**The regulations may change from time to time and this means the terms of your loan may also change.** This guide will be updated to reflect any changes and it is your responsibility to ensure you have the most up-to-date version.



The Sutton Trust in a publication, *Unfair Deal* has referred to the statement "the regulations may change from time to time and this means the terms of your loan may also change", as a 'get out' clause. The report stated that the retrospective nature of the change to loan terms could "undermine trust" in the loans system:

Changing the loan terms for existing borrowers

The terms and conditions for students' loans include the following.

You must agree to repay your loan in line with the regulations that apply at the time the repayments are due and as they are amended. The regulations may be replaced by later regulations.

Few student advisers pointed out and explained the potential consequences of this clause. Government ministers went out of their way to emphasise the 'generous' repayment terms without any reference to the fact that they could be changed.

[...]

If changes are made retrospectively, then government, universities, schools and other student advisers could be said to have mis-sold loans, mostly to young people aged 17 and younger. One of those advisers, Martin Lewis, founder and editor of the Money Saving Expert website, now feels betrayed. He believes a retrospective change "would be terrible news for confidence in higher education".

[...]

Would the proposed retrospective changes, which are clearly unfavourable to the borrowers, be lawful? Initial advice indicates that this is uncertain, but that retrospective changes, even with the 'get out' clause, could prove unlawful and the higher repayments unenforceable if challenged.<sup>15</sup>

However Nick Hillman director of the Higher Education Policy Institute has pointed out that the student loans repayment threshold has been retrospectively changed before:

loan terms have been changed retrospectively before – for example, the repayment threshold jumped from £10,000 to £15,000 for new and existing borrowers in the 2000s. So retrospective changes are not unprecedented.<sup>16</sup>

## 5.4 Possibility of a legal case

Some commentators have debated the issue of a legal challenge to the freezing of the threshold.

An article in the *Independent* has stated that the freezing of the repayment threshold could face a legal challenge, but the position is unclear. Gordon Marsden MP the Shadow Minister for further education has been quoted in the article as saying "I'm not even sure

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<sup>15</sup> Sutton Trust, *Unfair Deal: The effects of the 2015 summer budget on students*, September 2015

<sup>16</sup> "[Campaigners fussing over student loan repayments have the wrong target](#)", *The Guardian*, 26 October 2015

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what the legal position would be if anybody wanted to take judicial review on it".<sup>17</sup>

The Government's position is that freezing the repayment threshold for these loans does not require a change to the existing secondary legislation underpinning loan repayment. In their [response to the consultation on freezing the threshold](#) (published November 2015), the Government said:

This option [option 1, freezing the repayment threshold for all post-2012 borrowers] is the most straightforward for HMRC, SLC [Student Loans Company] and businesses (employers) as **no change from the current loan arrangements would be required**. The threshold of £21,000 is already set in the Education (Student Loans) (Repayment) Regulations 2009 (as amended); no legislative change would be required for a 'freeze' and there would be no need to specify the rules for raising the threshold.

Others commentators however, including Martin Lewis of the MoneySavingExpert website, have nevertheless questioned the legitimacy of the freeze. In an article in December 2015 Mr Lewis said that he would launch a legal challenge:

Campaigner and television presenter Martin Lewis has said he will personally foot the bill for lawyers to investigate the Government's recent change to student loan repayment terms, which could cost graduates thousands.

The lawyers will be exploring whether there are grounds for a judicial review, a type of court proceeding in which the lawfulness of a decision or action taken by a public body is reviewed by a judge.<sup>18</sup>

However in a Blog in May 2016, Mr Lewis suggested that a legal challenge is looking uncertain:

I've hired lawyers to look at challenging this, and will be blogging on that soon, though frankly it doesn't look good.<sup>19</sup>

### 5.5 e - petition

The freezing of the student loan repayment threshold was the subject of an [e-petition](#):

#### **Stop retrospective changes to the student loans agreement**

In 2010, the Government promised that from April 2017 the Student Loans repayment threshold of £21,000 would be upped each year with average earnings.

The Government has now backtracked on this promise, freezing the threshold at £21,000. Graduates will now pay more on their student loans.

This petition was started in November 2015, it received 132,000 signatures and will be debated on 18 July 2016.

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<sup>17</sup> "[Autumn Statement: Government faces legal threat over controversial plan to make students pay £6,000 extra on student loans](#)" the *Independent*, 25 November 2015

<sup>18</sup> "[Martin Lewis begins legal challenge over quiet student loans change](#)", *The Telegraph*, 14 December 2016

<sup>19</sup> Martin's blog, [The viral letter about mis-sold student loans due to retrospective interest hikes is well meaning, but wrong](#), (dated 26 May 2016).

## 6. Parliamentary debate

The issue of student loan repayments was discussed in a debate on 27 June 2016 – [Student Loan Repayments](#).<sup>20</sup> In the debate Jo Johnson the Minister for Universities made the following comment on freezing the student loan threshold:

Let me turn to the threshold freeze, which the hon. Member for Walsall South has mentioned. To put higher education funding on to a more sustainable footing, we must ask graduates who benefit from university to meet more of the costs of their studies. It is clear that graduates benefit hugely from higher education. On average, graduate earnings are much higher than those of non-graduates. In 2015, graduates' salaries averaged £31,500, compared with a non-graduate average salary of £22,000. The only alternative to asking higher-earning graduates to support higher education is to ask the taxpayer, who on average will earn much less than those graduates.

We did not take the decision to freeze the repayments threshold lightly. We consulted on the changes before they were announced last November and conducted a full equalities impact assessment. The changes will mean that graduates earning more than £21,000 will repay about £6 per week more than if we had increased the threshold in line with average earnings. The threshold is higher in real terms than the one we inherited from Labour, meaning that graduates under this system keep more of their earnings before they start to repay.<sup>21</sup>

Student loans repayments and the freezing of the threshold has also been raised in PQs, below is an example:

**Students: Loans:** Written question - HL428

### Lord Myners

To ask Her Majesty's Government what assessment they have made of the impact on graduates of freezing the income level at which student loans become repayable, and what estimate they have made of the number of students who would be rendered liable if that level were frozen.

**Baroness Evans of Bowes Park:** 15 June 2016

The impact of freezing the repayment threshold for 5 years was described in the government's consultation document, which was published in July 2015.

<https://www.gov.uk/government/consultations/freezing-the-student-loan-repayment-threshold>

Those who earn above the £21,000 threshold can expect to repay nearly £6 extra per week by 2021 (in 2021 prices), or around £306 per year.

We expect that an additional 9% of graduates will start to repay as a result of the threshold freeze. This equates to 190,000 of the 2.1 million Plan 2 graduates expected to be in repayment by 2020/21.

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<sup>20</sup> HC Deb [Student Loan Repayments](#) 27 June 2016 c122

<sup>21</sup> *Ibid* c127

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The £21,000 threshold remains higher in real terms than that applicable to student loans taken out before 2012<sup>22</sup>

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<sup>22</sup> PQ HL 428 [[Student Loans](#)] 15 June 2016

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