

The Education (Postgraduate Master's Degree Loans) (Wales) Regulations 2017

1. Human rights and equality

The Committee has asked for further information on the repayment rate of those aged 30, 40, 50, 55 etc. The table below provides the data, and is consistent with that used to inform the Explanatory Memorandum.

Age entering repayment	30	40	50	55	
Average income	£40,390	£48,640	£46,909	£45,657	
Average annual repayment	£1,163	£1,658	£1,555	£1,479	
Total repayment	£10,000	£10,000	£10,000	£10,000	
Repayment rate	100%	100%	100%	100%	
Age entering repayment	60	65	70	75	79
Average income	£33,231	£29,588	£27,164	£23,574	£20,241
Average annual repayment	£734	£515	£370	£154	£0
Total repayment	£8,713	£5,043	£2,467	£618	£0
Repayment rate	87%	50%	25%	6%	0%

Source for income data: Effects of taxes and benefits on household income 2014-15, Office for National Statistics. Income includes all sources of income including wages and salaries, imputed income from benefits in kind, self-employment income, private pensions, annuities, investment income and other income.

Probable repayment of the loan is modelled by considering the average income of each age group, which includes the state pension where appropriate. Repayment of a £10,000 loan is assumed to be made by those with an income of over £21,000, and repaid at a rate of 6% of any income in excess of £21,000.

The Committee has noted that the Explanatory Memorandum states that those 'aged 60 years and over will not, on average, repay the loan' while the Equality Impact Assessment states that 'people over 60 are unlikely to repay the loan'. The statistic data above is the basis for both statements, which are intended to be equivalent. In *R (on the application of Carson) v Secretary of State for Work and Pensions*; *R (on the application of Reynolds) v Secretary of State for Work and Pensions* [2005] 4 All ER 545 Lord Hoffman said:

“ a line must be drawn somewhere. All that is necessary is that it should reflect a difference between the substantial majority of the people on either side of the line”.

It is the view of the Welsh Government that, weighing all the relevant factors, an age 60 cut-off point achieves a fair and proportionate balance between the public interest and other interests involved and is, therefore, justified.

With regard to the four-fold test, it is the view that the bright line drawn does have a legitimate aim and is rationally connected to that aim: postgraduate loans are provided in the context of finite resources with the aim of promoting education which will improve the

supply of highly skilled workers to meet employer demand and contribute to a competitive economy. In the context of finite resources, the Government's aim was to set up a sustainable funding system representing a good return on investment i.e. loans. For that aim to be achieved, the efficient and effective collection of repayments is crucial. The statistical data in respect of repayments rates for different age groups is objective evidence of a rational connection of the age 60 cut-off to those aims. The possibility of less intrusive measures to achieve the Government's aim was considered in weighing up the proportionality of the measure. It was considered that another system which required individual investigation and assessment created a heavy administrative burden which consumed scarce resources and introduced scope for inconsistent decision-making and such a system would be less appropriate than a bright line rule. To summarise, in light of all the relevant case law and on the basis of objective evidence, it is considered that a bright line rule is justifiable.

It is the view of the Welsh Government that the same considerations of objective justification will be applicable to justifying direct or indirect discrimination on the grounds of age under the Equality Act 2010 (section 13(2)).

2. Maximum amount of loan for eligible prisoners

The Explanatory Memorandum and Explanatory Notes are drawn on the basis that regulation 12 will be referred to. As such, it will be evident that in the case of eligible prisoners that the maximum loan amount is £10,280; the policy basis being that the eligible prisoner will only utilise the loan to meet the course fees, as opposed to any notional maintenance element to the loan.

That said the Explanatory Memorandum and Explanatory Notes could have expressly repeated this caveat.