



## Work and Pensions Committee

### Oral evidence: PHSO Report on women's State Pension age, HC 740

Tuesday 7 May 2024

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Members present: Sir Stephen Timms (Chair); Debbie Abrahams; David Linden; Dr Ben Spencer; Sir Desmond Swayne.

Women and Equalities Committee Member present: Caroline Nokes.

Questions 1-68

#### Witnesses

**I:** Angela Madden, Chair, Women Against State Pension Inequality (WASPI); Jane Cowley, Campaign Manager, WASPI; Rebecca Long-Bailey MP, Co-Chair, APPG on State Pension Inequality for Women; and Peter Aldous MP, Co-Chair, APPG on State Pension Inequality for Women.

**II:** Rebecca Hilsenrath, Chief Executive, Parliamentary and Health Service Ombudsman; and Karl Banister, Director of Legal and Casework, Parliamentary and Health Service Ombudsman.

Written evidence from witnesses:

- Women Against State Pension Inequality (WASPI) ([WSP0001](#))

#### Examination of witnesses

Witnesses: Angela Madden, Jane Cowley, Rebecca Long-Bailey and Peter Aldous.

**Chair:** Welcome, everybody, to this meeting of the Work and Pensions Select Committee, when we are going to be considering the ombudsman's recent report on the management of the State Pension changes. We are very grateful to the four people who have joined us for our first panel today. Could I ask each of you very briefly to tell us who you are?

**Peter Aldous:** Peter Aldous, Co-Chair of the All-Party Parliamentary Group on State Pension Inequality for Women.



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**Rebecca Long-Bailey:** I am Rebecca Long-Bailey MP, and I am also the Co-Chair of the All-Party Parliamentary Group on State Pension Inequality for Women.

**Angela Madden:** I am Angela Madden, Chair of the WASPI campaign; Women Against State Pension Inequality.

**Jane Cowley:** I am Jane Cowley and I am the Campaign Manager for WASPI; Women Against State Pension Inequality.

**Chair:** Thank you all for joining us. Before I ask you any questions, I need to make a declaration here, which is that I was the Minister for Pensions between May 2005 and May 2006, part of the period, of course, covered by the report. So that needs to be on the record.

**Caroline Nokes:** Can I make a similar declaration, although less significant? I was a Minister in the DWP between July 2016 and 2017 and may well have answered questions in the House and responded to debates on this subject.

Q1 **Chair:** The WASPI campaign started urging supporters to take this case up with the ombudsman in 2017. Why do you think it has taken so long to get to this point? How far will the women affected who are supporting the campaign, and their MPs, support the proposals in the ombudsman's report? Why has it taken so long and what is the response? Who wants to begin?

**Angela Madden:** Good question. To be fair, there were some hold-ups outside of the PHSO's control. There was a judicial review taken against the Government by another group on another cause, which did fail in the end and was refused the right to appeal. I suppose it will be for the PHSO to say, did they really have to delay until that made its way through the courts?

Another factor was the time taken by the Department for Work and Pensions and the independent case examiner to respond to the initial complaints they received. Given that they only ever produced template letters in response, perhaps that process could have been quicker.

Some minor delays were caused by the WASPI campaign. We asked for additional weeks to provide feedback. Often the reports were published days before significant holidays like Christmas and a couple of times, and Easter. We also felt we had to challenge the original stage two report because it seemed illogical and unlawful. At that time, the PHSO made an almost unprecedented offer to settle out of court as soon as we made the challenge. They took almost a year to reconsider and reissue the report, but it led to a significantly different stage two report, so we still feel we were right to make that challenge.

It is probably more for the PHSO to say why the investigation took so long. We always tried to co-operate fully and acted as quickly as we could. During the course of the complaints process, 270,000 WASPI



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women have died without justice. In fact, another nine WASPI women may die while we have this evidence session today; there is one of us dying every 13 minutes. So time is not on our side.

Q2 **Chair:** Does anyone else want to comment on why this has taken so long?

**Peter Aldous:** Yes, Mr Chairman, I will say a few brief words. Angela has summed up the situation. Obviously, she and also the DWP would have been fully involved in the to-ings and fro-ings in the report. What I would say, standing back slightly as an outsider, is that it is an incredibly complicated issue which means an enormous amount to a lot of people. Therefore it is right that the ombudsman took a long time in deliberating, hearing all those different views and coming to their conclusions in their two reports.

Q3 **Chair:** What is the response to what the ombudsman is now proposing? How has that been received?

**Angela Madden:** By us?

**Chair:** By all means, Angela.

**Angela Madden:** We have never campaigned for anything other than some compensation for what we saw as the failures of the Department for Work and Pensions. So, we are pleased with the report. It has identified that there was maladministration—big tick for us. It has identified that the remedy should be compensation—big tick for us. It has also laid the report before Parliament, which we are really happy with because we feel that Parliament is the right place for that decision to be made. The level suggested in the report, we think, is on the low side. We would like to talk about that some more later.

**Rebecca Long-Bailey:** The report was quite clear in finding maladministration. It highlighted that many women had lost opportunities to make informed decisions about their finances and their future. It also called for the DWP to apologise to these women. But more importantly than that, it confirmed that there was injustice, and that redress should be payable to these women. I think it is important to stress that while the DWP made certain recommendations and PHSO made certain recommendations within the report, the ultimate mechanism for redress and the amount that that mechanism will represent is ultimately to be determined by Parliament.

As Angela has said, the proposals, or recommendations shall we say, in the report for a level 4 injustice scale compensation scheme are very low, given the amount of evidence that we have certainly received as an APPG and the extreme levels of injustice that many of the women that have expressed their situations to us have faced.

For this Committee, certainly, I think the point now is that the report makes clear that redress should be payable. The next step should be to



determine what that redress should look like and how Parliament can be given the opportunity to debate and amend proposals put forward by the Government.

**Q4 Dr Ben Spencer:** Complainants told the ombudsman that they doubted DWP's intention to provide a remedy. What was the basis for this doubt or concern?

**Angela Madden:** They have never accepted that they have done anything wrong. For years they have been, shall we say, hiding behind the ombudsman's report, saying that they can't possibly speak, they can't meet with us, so we don't feel that they will either willingly or speedily or with a sense of resolving anything, make the right decisions about compensating WASPI women. They have never given us any indication that that is what they would be willing to do.

**Q5 Dr Ben Spencer:** Have you had any engagement with the Department since publication of the report?

**Jane Cowley:** No is the answer to that, in one word. We have attempted to meet with the Minister throughout our campaign but unfortunately those requests have never been accepted. I think that, as Angela has mentioned, the ombudsman's requirement that the process and the investigation was conducted in private has had a very stifling effect on what could have been a productive relationship between ourselves and the DWP.

The DWP has always insisted that they cannot meet with us, that they cannot comment while the ombudsman's investigation was ongoing. Whereas I think we would have been very happy to have met with the DWP early on to talk through possible solutions and possible ways forward. So, I am afraid we have not had that opportunity. We have written to the Minister since the report was published and we have not yet had a response to that letter.

**Q6 Dr Ben Spencer:** Do you think the DWP is going to accept the ombudsman's finding of maladministration? What is your sense?

**Jane Cowley:** The PHSO have indicated that they feel that that is unlikely. I think it is probably our view too. We have only had a statement in the House saying that they will consider the report. The DWP have had the draft report for some considerable time now. They have taken again quite some time to consider the report once it has been published. It does seem to us that they are playing for time and hoping to kick it into the long grass.

**Q7 Dr Ben Spencer:** Putting compensation aside—I fully appreciate that compensation is going to be, if not the most important thing that you yourselves are pushing for—but regarding the sense of injustice that you feel, how important is an apology? Who do you think the apology should come from? Should it come from the Ministers who were in charge at the time when these changes were being made and communication did not



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happen? Or should it be people now? Who do you think are the most appropriate people to apologise, bearing in mind the length of time this has gone on and with different people involved?

**Angela Madden:** I think every party has had a hand in what has happened here. It started way back in 1995. There have been at least 10 Pensions Ministers while we have been running this campaign. I think the apology needs to come from the Department for Work and Pensions in general. So, I think the apology from the current Administration will be quite important.

It needs to be genuine. It needs to acknowledge that we have endured seven years of DWP denial currently about something that was not our fault. It shouldn't criticise the women for making decisions in the absence of correct information, because all that does is add insult. Years of insult has then been increased by added years of injury. An apology without a commitment to a fair remedy is not an apology at all. That is what we would like to see from an apology.

**Q8 Dr Ben Spencer:** I am thinking about my own casework and constituents that contact me about this issue. It seems a lot of this case turns on communication and how people are communicated with and people's understanding. I have people contacting me who believe that as a consequence of the ombudsman's decision, they are likely to or could get full reinstatement of the pension, which obviously is something very, very different. I don't think for a second it is their fault for believing that. There is a lot of miscommunication in something that is so important and so emotive.

What are your reflections in terms of the communication that is happening at the moment around the stages of the case and making sure that people who are affected know the situation and know what potential things could happen in the future?

**Jane Cowley:** In terms of the communication and women knowing about it, the DWP's own polls showed that only a minority of women were aware of the changes to their State Pension age, and of that minority a much smaller subset—an even tinier minority—knew exactly how it would affect them personally. That has been shown by the DWP's own surveys. The DWP did fail to inform women and, even more, they actually knew that they had failed to inform women.

I think that is something that we do need to be bearing clearly in mind as we go forward—that it is not that women might have known; women genuinely did not know.

**Q9 Dr Ben Spencer:** Perhaps I did not communicate my question properly. Right now it strikes me, because this is a fiendishly complicated area, that there is a danger of many people misunderstanding exactly what the ombudsman's decision was, the scope of it, and the potential changes for women going forwards. Particularly around the fact that it was a very narrow decision that the ombudsman made about maladministration



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regarding communication rather than the policy in itself. When you look at the compensation, which I know is going to be discussed in a bit more detail in questioning a bit later on, full reinstatement of pension isn't part of that. I am a bit concerned that, with the focus of what is happening on this case, some people will misunderstand what the implications will mean for them going forwards, if that makes sense.

**Angela Madden:** It was never our campaign to go for restitution; we have always campaigned for compensation. There are some campaigners for restitution expecting to get their full pension back. We feel that there are many more campaigners who are willing to accept that compensation is the right way forward. Full restitution would be a fair remedy if the Government had broken the law; that has already been decided in court.

We have tried, throughout the course of our campaign, to communicate and manage the expectations of women. We have a large following on social media. We have got members; we have got a website. Our reach is probably hundreds and thousands of women and they do expect compensation. But they expect that compensation to match the injustice that they have suffered. I think if it does, they will be satisfied. If it doesn't, then they won't. I think that the level of compensation commensurate to the maladministration is a bit off, and that that needs to be considered further.

Q10 **Chair:** Can I just interrupt for a moment? Peter, did you want to come in?

**Peter Aldous:** I wanted to quickly come in on the issue of an apology. As far as I am concerned—I am looking both at the ombudsman's remit and also at what the DWP say with regard to financial redress—you don't just want an apology on its own. An apology needs to come along with an explanation of what went wrong and it is primarily involved with communication and showing that steps have been taken to ensure that would not be repeated, plus that financial compensation. The three, if you like, come together. That is the one point I would make on Dr Spencer's original question.

Q11 **Sir Desmond Swayne:** WASPI has described the ombudsman as being very conservative in his findings of injustice and modest in his approach to remedies. Can you explain that? For example, would it have been possible for the PHSO to have identified that there was direct financial loss?

**Angela Madden:** Yes. We always expected that had the ombudsman found both maladministration and injustice, that we would have been put back in the position that we would have been in had the maladministration not occurred. The ombudsman's own words there. We have looked at the words and examples in the ombudsman's own guidance on financial remedy that are published on their website today.

I will remind you of some of those words: "Cases with extended severe distress/worry, lasting over several years, or...where there is no prospect



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of relief in the near term”; “Severe distress over an extended period”; “Prolonged financial hardship lasting several years”; “Hardship, over an extended period; five years or more.”

We have read those words and we can’t understand why the PHSO hasn’t seen our cases, which started 12 years ago and are still going on now, so we have had more than five years of distress and worry and quite a long period of financial hardship—why those words don’t match the injustices we know we have had.

You mentioned direct financial loss. We believe that the ombudsman could have found direct financial loss in the six cases; but they will talk about that later. But even if there were not financial loss in six cases, there are 3.6 million other cases. We should allow that there could be financial loss and perhaps a remedy should allow an opportunity for women to prove financial loss, and that onus on evidence shouldn’t be too extreme.

We can give you an example. Women who were divorced had their divorce settlements based on a pension age of 60. That means they were awarded less money in a divorce settlement. That, to me, is clear financial loss. There are other cases, and we think it would be fair to allow for that to be proven as part of a redress system.

**Q12 Sir Desmond Swayne:** What circumstances would justify compensation above level 4?

**Jane Cowley:** The PHSO said quite rightly that it wouldn’t be right in this case to do a completely individualised approach to compensation. It would take far too long, with huge delays on women who have already faced quite significant delays. But we do feel that a standard approach isn’t right because there are different factors that come into play.

In terms of the things that we would like to see in a compensation scheme, we have three principles that we would like it to stick to. We would like it to be speedy. Because of the delays that have already gone on, we want it to happen within something that can be set up within weeks rather than years; and a scheme that can make fast and straightforward decisions. We do not want anything approaching the Windrush scheme or anything like that. It needs to be very simple, very clear, easy to operate.

In terms of information women are asked to give, which comes into this tailored approach, it has to be simple and straightforward information. It has to be things like their date of birth, their National Insurance number, that kind of thing. Nothing more complex than that, which they could put in online or perhaps on a short paper form for those women who do not have access online.



I think women need to be given the benefit of the doubt. We have had many years of women's word being doubted by the DWP and we need to move on from that.

Thirdly, and this is where it comes to the one size not fitting all, it has to be sensitive to the different amounts of notice that women should have had and the notice they actually did have. There is quite a difference here, because some women had one year's notice of a three-month increase to their State Pension age. Other women had 18 months' notice of a six-year increase to their State Pension age. It is not difficult to see that the latter group are the ones who are far more likely to have suffered quite difficult consequences because of that lack of knowing. They are the women who will have done things like giving up work because they thought they only had a couple of years to go until they received their State Pension, and once having given up work, then found it incredibly difficult to get back into the workforce.

As Angela said, there is the issue of direct financial loss. Again, it needs to be a simple scheme where women can put forward objective evidence to show that that has happened. I think that those things mean that we cannot have a one-size-fits-all. It does have to take account of people's different circumstances.

**Q13 Sir Desmond Swayne:** There are two issues. First, the ombudsman has said that there is not direct financial loss, so you are effectively asking the compensation scheme to overrule the ombudsman.

**Jane Cowley:** Or indeed for Parliament to decide that there has been direct financial loss.

**Q14 Sir Desmond Swayne:** Is there not a contradiction between your desire for simplicity, swiftness and minimum information, and what the Chair has told us about the ability for people to prove direct financial loss?

**Jane Cowley:** I think you are right to point to that issue. It would need to be a two-pronged scheme, with one section of it operating quickly, swiftly and easily, with the recommended levels of compensation tailored to that length of notice. But that can be done very simply on when letters were sent, dates of birth, all known facts. That is not a difficult thing to put into place.

The other prong of the scheme would, I think, be more difficult and potentially could take a little bit longer because individual cases would need to be looked at.

**Rebecca Long-Bailey:** There are a few points that I wanted to make on the issue of direct loss, and I would not want the Committee to get hung up on this particular point specifically. First, the PHSO has made the decision on what direct loss is, based on its own guidance. It is not statutory and therefore it can be amendable on a parliamentary level.





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It is important to stress that that notion of direct loss was made on the premise of the six cases that the PHSO was examining. It has not looked at the wide range of cases and the other women that have been affected, who in many cases—certainly presenting before the APPG—in our view, have suffered extreme direct loss.

To add to the point that Jane made, when you broaden it out to that level, you have 3.5 million, possibly more, women who all have individual situations and individual levels of direct loss. It is important to try to find a scheme that compensates them adequately, but you also have to look at the resources the Department has to be able to do that. Indeed, the PHSO states that the cost of administration and burden of assessing potentially millions of individual women's needs to be considered, and that HM Treasury requires compensation schemes to be efficient, effective and deliver value for money.

I think that is why Jane has outlined a broader scheme, potentially with tapers in, that would address for higher levels of compensation for women who were affected severely, and lower levels of compensation for those who only lost out by a few weeks, for example.

**Peter Aldous:** First, it is important to point out that in the report, the level 4 level recommendation, it is a suggestion, not a recommendation. The ombudsman is leaving it to Parliament to look into this matter further.

Back in early 2022, the All-Party Parliamentary Group did submit a representation to the ombudsman for what we believed the compensation should be, looking at the various levels, taking into account the evidence that we had received from all around the UK—pretty harrowing evidence in many respects—we had little difficulty in recommending that it should be at level 6.

As we have heard, there are varying cases of people who have been impacted. The advantage of going for a level is its simplicity and speed, but it may not compensate properly a number of women who have been impacted. It might over-compensate others who had taken the measures.

In a subsequent representation we submitted, and I will pay tribute to my former co-chair, Andrew Gwynne, on this—he described it as a bell curve-type of compensation whereby those who had received least notice of the longest postponement, that is women who were advised that they had a year until their pension age went up by five years or so, they should receive the most, and those who had received the longest notice of the shortest increase should receive a lesser amount.

I accept that that bell curve probably needs an element of refinement, but that would be the approach I would suggest that we should be looking to introduce to take into account the ombudsman's recommendation that this matter is resolved as quickly as possible.



Q15 **David Linden:** In principle, the ombudsman has said that the amount of redress should reflect individual circumstances, but in reality a standardised approach might be more appropriate in this case, given the sheer number affected and the need for that timely remedy, some of which you have touched on. Can I ask each of you, which would you support? I will start with Mr Aldous.

**Peter Aldous:** Based on what I have said and the evidence that we accumulated, and the case we put in, the APPG recommended level 6 two years ago. I don't think we would be shying away and diverting, or I certainly would not be, from that recommendation that we made at that stage.

**David Linden:** Does anyone want to demur from that?

**Angela Madden:** I think the main facet of the scheme would have to be rule-based, so that individual cases are not re-examined every time. That rule base would have to be based on the thing that Peter was saying—length of notice period, length of time that they underwent financial difficulty because their expectations they had not prepared for. I think it has to be that.

But, as Jane said before, there are some elements that even within that there may be direct financial loss that was not apparent in the six cases. If individuals wanted to apply for that, they would have to apply evidence. That evidence would then need to be examined, but that would be in fewer cases than the mass that we are talking about.

Q16 **David Linden:** A question specifically to WASPI. You suggested a scheme based on notice and extent of pension age increase. The ombudsman says longer notice does not necessarily mean having greater chance to do something different. Would you support a system just based on the extent of the change in pension age?

**Angela Madden:** It would depend on the system and where it landed. If the worst affected did get significantly more than level 4, because we believe the worst affected really deserve that level, then I think that would be acceptable.

**Jane Cowley:** Our view is the worst affected group is the group I spoke about earlier—those who had the shortest notice of the longest delay to their State Pension age.

Q17 **David Linden:** Would means-testing be an acceptable way of targeting a response system?

**Jane Cowley:** Sorry, can you repeat that? I am sorry, I am having a difficulty hearing you.

**David Linden:** Would means-testing be—

**Jane Cowley:** Would a means-tested solution be acceptable? When it comes to that, we have to go back to the very fundamental question of



what the scheme is for. It is not a welfare benefit scheme. That is not its purpose. It is a scheme to provide remedy for a wide-scale Government failure to do the right thing for a group of women who have suffered quite significantly from that failure. It is a remedy for injustice. We do have a separate welfare scheme that attempts to do the right thing by people in difficult circumstances.

The means-testing question is one that we are asked quite frequently. I think a good analogy here would be that if there was a car crash and both the driver and the passenger were equally seriously injured, it would never be suggested for one moment that one should get more compensation than the other because they were poorer. That has never been the basis of any court system, and it has never been the basis of any compensation scheme, and it really should not come into play here.

Also, thinking about other compensation schemes that have been introduced over the last few years, none of those have been based on the financial circumstances of the victims, and I feel it would be a further injustice to WASPI women to make that the case here, too. All the women have suffered injustice and all should have remedy.

**Q18 David Linden:** For what it is worth, I agree with you on that. Going slightly off script here, I have been an MP for almost seven years and WASPI was one of the big issues in the 2017 election campaign. I ask this more as a sense of reflection for everybody. It strikes me that Ministers have relied very heavily on obfuscation, hiding behind court judgments. Would it be legitimate to say that the WASPI campaign itself fractured over time and, because of mixed messages, that has also had an impact on the ability of how long this has taken?

**Jane Cowley:** I wouldn't say so. I think we have always been very clear in what we are looking for. As Angela said, some other groups have been looking for the law to be changed essentially, or for an amount of redress that equals the amount of lost pension. That hasn't been what we have been asking for. We have been looking for something that is reasonable in terms of the lack of notice that we had.

**Q19 David Linden:** Do you think those groups have actively hindered the chances of 1950s women in the longer term?

**Angela Madden:** We certainly have heard MPs in the past saying, "If you all asked for the same thing everything would be fine." I suppose it gives those that don't want to move on the issue an excuse not to. In that way possibly, because the DWP have shown that they will hide behind anything not to accept that they got something wrong. But perhaps now is the time to stop that game-playing, if that has been going on.

**Q20 David Linden:** Finally, before we come on to the role of Parliament, which I am sure Ms Abrahams is going to talk about, a question specifically to the WASPI campaign. We are approaching an election this year. The view has been, "Bat it back to Parliament: Westminster



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politicians can decide this issue.” Do you have a fear that just as there has been injustice for people in the contaminated blood scandal and the Horizon scandal, there is a real risk that, as a result of this coming back into the Court of Westminster politicians in an election year, that will delay things even further? I think it is right that you put on record that 270,000 women have died during this process; I think nine will die during this hearing. Is the message here that politicians need to put the politics aside and just get on with delivering justice for the 1950s women, even in an election year?

**Jane Cowley:** I think so. We must remember that this is the longest-running PHSO investigation that there has ever been. I think it has been probably the costliest in terms of resources and possibly the most demanding and complex that they have undertaken. It is an investigation into maladministration and injustice on a massive scale—3.8 million women were affected initially. So if ever there is a case that demands a proper response from Parliament, this has to be it.

There is a danger that it could get lost in politicking. But if Parliament isn't able to bring about something that begins to approach justice for WASPI women, I think that it will mean that people will lose faith not just in the PHSO, but also in the Government's readiness to hold itself to account when mistakes of this nature are made.

As Peter I think said, a refusal to act would drive a coach and horses through the system of checks and balances that are in place on the Government itself. It would beg the question of whether there is any point at all in having an ombudsman, and perhaps Ms Hilsenrath will have more to say on that point when she speaks.

If people see that the PHSO's recommendations are not carried out, they will know that a public authority can just dig in its heels and refuse to act when things go wrong, refuse to put things right, and that will feed into the public's quite understandable cynicism about the Government's and Parliament's ability to do the right thing when things have gone wrong.

We had some interesting information this morning. We conducted a poll over the weekend. You might be interested to know that 68% of respondents to that poll—which was among the general public, not among WASPI women—said that the Government should act now on this: 68% said that WASPI women have waited too long; and 68% said that the Government should act on the recommendations of the PHSO.

What will happen if the Government does not act? What will WASPI do? We know that a Pensions Minister—I think it was Baroness Altmann some time ago—was told to ignore us and we would go away. We haven't gone away and we will not go away. We cannot go away while we have got one woman dying every 13 minutes without justice. We won't just sit back and passively accept that injustice. And we will continue to use whatever power we have in terms of public opinion—strongly on our side, this poll suggests—the media, the political support—we know that we have many



supportive MPs in the House of Commons—and, as it comes to election, the ballot box and, if necessary, the legal system. We will continue to be very active on this issue.

- Q21 **Caroline Nokes:** Ms Madden made quite a compelling case about direct loss—I should perhaps declare an interest again—for those women who have divorced and whose divorce settlement might have been predicated on an expected retirement age. Had the ombudsman come back with a level 6 recommendation instead of level 4, would the WASPI campaign have then dropped the request for tailored compensation?

**Angela Madden:** It would certainly be easier to. But if there has been direct financial loss, we do feel that ought to be recognised as well.

- Q22 **Caroline Nokes:** A quick follow-up. I think it was Ms Cowley who referenced the Windrush scheme. I well recall Martin Forde being appointed as the independent adviser on that compensation scheme and how long that took. What do you fear about Parliament stepping in and saying, “Okay, let Parliament design a scheme”—the length of time it might take if an independent adviser of his calibre was required?

**Jane Cowley:** It goes back to the point that any scheme needs to be put together by an Act of Parliament. It needs to be a statutory duty on the DWP. That Act of Parliament should set strict timescales, which Parliament oversees and holds it to account on, because otherwise we do run the risk of going down that path—of years dragging on and women not getting the compensation that they should have.

**Chair:** Peter, did you want to come back on something?

**Peter Aldous:** No.

- Q23 **Debbie Abrahams:** I have been listening with great interest to what you have been saying, particularly in terms of the mechanics of the development of a scheme and how the scheme might operate. I take the point that David and Caroline have just made about the length of some of these schemes. In the infected blood inquiry, going back to a scandal that originated in the 1970s, still there has not been interim payment on those that have been affected. More and more people have died over the last year since the Chairman of the inquiry said there needed to be an interim payment. That is something we really need to be mindful of.

Angela and Jane, are you happy with the recommendation from the PHSO around Parliament being the body that should take charge of a scheme and how it might be developed and delivered?

**Jane Cowley:** I would just say one thing. We would have been much happier if the DWP had accepted the PHSO’s report, had accepted responsibility, and then we could have moved forward from that point. But we are not at that point. I will let Angela take over now.

- Q24 **Debbie Abrahams:** Can I just pick up on that because I think this is important? We will be asking the ombudsman in the next panel about



these points. But given that this is a report that has gone to Parliament—so it has bypassed a Government Department, and it is a subtle distinction between Government and Parliament—it would be interesting to explore that with the ombudsman in terms of why they decided that it should come to Parliament, rather than going to the Government in confidence about a satisfactory response in relation to that. Are you content, as a member-led organisation, that it has come to Parliament to determine?

**Angela Madden:** Yes, I think we are. We are, for the very reasons you are implying in the question. The Government can railroad Parliament. It can almost undermine the democratic process, especially when it has such a sizeable majority. But I think it is very important that all the MPs have the right to persuade their colleagues of whatever their feelings are in the matter. We know we have very strong feelings from hundreds of Members of Parliament that we should be given a better deal than the Government or the DWP would be prepared to come forward with.

Q25 **Debbie Abrahams:** Herein lies the interesting conundrum. Parliament does not decide the business of the House and what legislation is brought forward; that is up to Government. What was the mechanism that you thought of that could lead to a Bill and the structure and the development of a scheme and its delivery and so on that could come about? I will come to you in a minute, Peter.

**Angela Madden:** We were hoping one of the mechanisms, for example, a Backbench business debate, if that could somehow turn into a Bill. We have had several Back-Bench attempts at getting debates. But you are right, unless the Government want it to go through, they can merely ignore it, can't they?

**Debbie Abrahams:** Absolutely.

**Angela Madden:** We noted that the £22 billion that Parliament offered to the infected blood scandal was by an amendment to a Bill that was already going through Parliament, but there doesn't seem to be a relevant Bill that we could do anything about on that.

**Debbie Abrahams:** That would set up delays and so on. Jane, did you have anything to say?

**Jane Cowley:** No, I will defer to our two MPs sitting here.

Q26 **Debbie Abrahams:** I just wondered if you might have had legal advice and somebody might have come up—because I am certainly not a constitutional expert in any ways or means.

**Jane Cowley:** It is something we are very much aware of and something that we will be putting a lot of thought to thinking about how we can bring some change back.

Q27 **Debbie Abrahams:** Over to my colleagues here. Becky and Peter, did you have any view in terms of how this could—



**Rebecca Long-Bailey:** The first point to make is that it is very rare for the ombudsman to lay a report before Parliament. If you read the report, they have done that because they don't believe the DWP will act on their findings. That is why they have put it within Parliament's gift to make a decision about what a mechanism for redress should look like.

Q28 **Debbie Abrahams:** Sometimes we use the Government Departments as a separate entity. These are Government Departments run by Ministers. That is the Government. So there was no confidence in the Government, through their Department, in the delivery of that scheme; I think we just need to call a spade a spade.

**Rebecca Long-Bailey:** That is right, and there has been no movement so far, as we have heard from the DWP, in acknowledging its failings or issuing an apology, despite how clear it is within the PHSO's report.

In terms of what action Parliament can take, I agree with Angela and Jane that there needs to be some sort of legislative framework that MPs can amend if they are not happy with the proposals put forward by Government. But ultimately we need to see a set of proposals from Government urgently.

**Peter Aldous:** As has been said, normally when the ombudsman issues a report, within minutes it is accompanied fairly quickly by a response from the relevant Department saying, "Yes, we accept these recommendations. We will be putting in place the following measures to address them." Clearly, the ombudsman was not comfortable they were going to get that response and therefore they have handed it over to Parliament to play a lead role in the process.

The nature of our constitution, the way Parliament is set up, there is no silver bullet, if you like, for Parliament to use to get that compensation and response in place.

Parliament does have a variety of mechanisms that can play a role. We, as an All-Party Parliamentary Group, will be having further evidence sessions with the various groups to come up with our own proposals. You yourselves are extremely influential; you will come up with your roles. There will be debates. There is a debate on the 16th of this month, which I believe will have a motion that will help as well. I would hope that the Government will not be a bystander sitting back and saying, "Right, chaps, we don't need to do anything," and that they will engage and listen and hopefully take part in this process, so that we can come to a solution sooner rather than later.

**Debbie Abrahams:** Thank you, Peter. It is tricky though, isn't it? I think we need to be really, really clear about this to everybody and not raise expectations. Under our fantastic Chair, we can produce reports. The Government do not have to accept them, though, do they? We just need to be absolutely clear. A motion for a Backbench Business Committee cannot necessarily lead anywhere. I know we have a Private Member's



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Bill that is making a recommendation to the Secretary of State, who can again kick it into the long grass. This needs us to be working in a co-operative way, doesn't it, and for us all to pull together to make sure that these women get the justice that they deserve? Thank you, everyone.

**Q29 David Linden:** Following what Ms Abrahams has said about keeping expectations clear, I just ask parliamentary colleagues, to put it on the record, even if Parliament was to pass an amendment, the reality is the Government still has to bring forward a money resolution, doesn't it? So the ball is always going to be in the Government's court, regardless of what Parliament does, isn't it?

**Rebecca Long-Bailey:** Yes.

**Q30 Chair:** Could I put a couple of further questions to you? Given what you have been through in all these years of campaigning, what lessons do you think the DWP should learn for its own purposes, for the future? What do they need to change for the future?

**Angela Madden:** I think some things have already been written down on paper. They probably come out from other reviews, like the John Cridland review and the 2017 pensions review. It has already been said that people need to have certainty about their future, their State Pension, when they are going to get those things.

I think now it is almost accepted—well, it is written down—that there should only be a one-year increase in State Pension age every 10 years, and the people who are subject to that increase should have 10 years' notice, and that notice should be individually tailored to the people. But there is still no evidence that the DWP has taken that up.

I really do think that the DWP needs to almost act a bit more like its sister Department, the HMRC. We never had to scabble around and try to look at adverts and find out things about our tax code; they told us every year. When you get a change to your tax code, you get notified every year. I think something like that needs to happen. The whole point of a lot of the communications from the DWP seems to be now about stakeholder pensions and looking after yourself, but they have a responsibility in also telling us how much State Pension and when we are going to get that State Pension, so that can form part of our planning.

Because that is honestly what we do: we plan our life based on what we know. And if we don't know the right things, then how can our plan be the right plan? The responsibility lies on the Government and the Government Departments to tell us those right things. They need to take that on board, but they have not taken any of that feedback on board, wherever it has come from, as yet.

**Peter Aldous:** Since 1995, there have been some significant and dramatic changes to the State Pension age, both the equalisation and increasing it over the years. I would expect that that debate, and probably those changes, will carry on. What has come out of this is that





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the means of communication for people to properly prepare for those changes does need reviewing. The DWP really do need to review their systems and to make sure that, as we have said, ideally those 10 years for people to prepare is what happens. We are still hearing examples of people getting a year's notice of changes. That is not acceptable.

**Jane Cowley:** One final point, which is perhaps less about the DWP and about the whole issue of the PHSO's report and how it was brought about. Over the long period that the PHSO was investigating, the DWP could refuse to engage with us, or with the press or with anybody, because they were able to cite the need for the PHSO's investigation to be conducted in private. Even when stage one of the report was produced in July 2021, which clearly showed that there had been maladministration on the part of the DWP, they were able to avoid comment at that point because they said the investigation is still ongoing and therefore we cannot comment.

I do not feel, and perhaps this is a question for PACAC rather than this Committee, that that was helpful in this case; it provided a smokescreen for the DWP to hide behind during all that period, rather than having to come forward and say, "Yes, there was maladministration and we are going to have to do something about it."

Q31 **Chair:** An interesting point.

**Rebecca Long-Bailey:** Very quickly, to add to the points that have been made. I think it is important to stress that, first, each of the women that were affected should have received an individualised letter informing them of the change to their pension age well in advance. That did not happen. Even when that issue was raised with the DWP by this Committee, I think many, many years ago, actions still were not taken at that time.

Indeed, the ombudsman's report said that there was a failure to recognise and respond to research and feedback that showed information about State Pension age was not reaching the people who needed it. So, there seems to be a constant breakdown in communication, even when the key point is pointed out to the DWP and the actions that they should take are exemplified to them. That is certainly something that I think might form the basis of a follow-up report by the ombudsman, but it is something that the Committee should consider.

Another very brief point that I wanted to stress, and it touches on a point that Dr Spencer made earlier. It is important to stress that this report is about maladministration. It is about whether women receive notice of the change in their pension age. It doesn't deal with the wider issue of discrimination in the policy itself, and the fact that these women were often a group that were out of work, looking after families, raising children. They were at a disadvantage compared to their male counterparts when they reached that State Pension age. Certainly that is



something that I would like the Committee to look at in more detail in the future.

Q32 **Chair:** Thank you for that. Lessons about the ombudsman process. Does the ombudsman, from what you can see, have the powers, resources needed to hold Government Departments to account? What sort of lessons would you draw about that aspect of what has happened?

**Angela Madden:** It would appear not, if the DWP can just ignore what the ombudsman says. That must be very distressing, both on the complainants but also on the ombudsman themselves. Perhaps that should be a stronger link between what the ombudsman's recommendations are, what they decide and what the relevant Departments have to do.

Q33 **Chair:** A final point to Angela and Jane. A lot of women did know about these changes. I think the DWP research said 40% or something, wasn't it, were aware of the changes that had been agreed? It was quite widely reported in newspapers, TV and radio and so on. I do not know either of you but you strike me as the sort of people who probably read the newspapers and listened to the radio news. Looking back on it, why do you think you missed the fact that this change had been legislated?

**Jane Cowley:** We are going back to 1995 here. You have to think about the age of women at that time, what their lives might have been like. Many of them were not in work. They were at home at that time, looking after families. There was some coverage in the newspapers, but it was often on the financial pages of the newspapers. Possibly many of those women were not avid readers of the financial pages. There wasn't a proper communications campaign by the DWP at that point. I certainly didn't know about it. I was one of those women who was not working at that time, and I was unaware of it. That is something that is quite easy to forget these days, when everything is on the internet at the touch of a button; we are going back to 1995 when news came via the television, the radio or newspaper. It didn't come out through other channels. The advertising campaign that the DWP put together involved dogs talking to each other and nobody mentioned women's State Pension age changing or anything like that in it. When you put yourself back in that time it becomes easier to understand how that could happen.

Q34 **Chair:** Let me add another point and then bring you in, Angela. To what extent do you think citizens have a responsibility to keep themselves abreast of changes in the laws that affect them?

**Angela Madden:** I will come in through that last point. I was working full time. I worked full time for 42 years. I only had three months off work. I never claimed benefits. I didn't really have to interact with Government Departments. Because quite a lot of the leaflets that the DWP put their data in actually go to unemployment offices or citizens advice bureaux and places like that. There was one leaflet that they trumpeted about, I think they only sent out 42,000 copies and that went to pension advisers.



I didn't use one of those either. But what I did get for 17 years of my career was benefit statements from a pension scheme that I was in, and those statements told me that the benefits listed in the statement would come in addition to State Pension benefits, which would be paid at 60. That to me is information that is current, it is from my employer, it is from a trusted source; it is not gossip, it is not an advert, it is not a dog talking to another dog on a beach.

So, I believe the way the DWP chose to manage that campaign was wrong if they wanted to tell women what their State Pension age was going to be, because it was all based on (a) women seeing it and (b) women then taking action to do something about it. Adverts in newspapers; I think one of *The Times* features was that the State Pension age is changing, it will be 65 for everybody in 2020. I don't ever recall seeing that until I got involved in the campaign, but if I had I would have thought, "Phew! I get my State Pension age in 2014 so it will have nothing to do with me at all." So, it is not targeted enough.

**Q35 Chair:** Your employer pension scheme was telling you it would be age 60 up until when?

**Angela Madden:** 2004 was when I left that, so that was a good nine years after the law had changed. Should we make ourselves aware of changes in the law? It would be very, very difficult, wouldn't it, for us to be as aware as you are of every change in the law that affected us. I know the law says that ignorance of the law does not mean that you can get away with doing something wrong, but paying your National Insurance, doing what you have always done, isn't doing anything wrong.

**Jane Cowley:** Just to come directly to your point about should citizens make themselves aware of changes in the law. Yes, I agree with that entirely, but in order to do that the information has to be made available to the citizens and, in our case, the PHSO report has shown very clearly that that information wasn't made available to us. How could we have done our duty by making ourselves aware if a proper information campaign wasn't there to help us along that path?

**Chair:** David wanted to come in.

**Q36 David Linden:** Could I ask those representing WASPI, is it fair to expect people to be aware of changes in the law when only last week the Prime Minister who brought in voter ID turned up at a polling station without voter ID? Are we seriously expecting people to understand the law when lawmakers do not understand it sometimes?

**Chair:** A rhetorical question, David.

**Angela Madden:** We have WASPI women who worked for the Department of Work and Pensions and they were unaware of the law too.

**Chair:** Yes. Thank you all very much indeed for the years of work that I think everybody on the panel has put into this, but particularly Angela



and Jane and your colleagues—all the work you have done on this. Thank you very much for being willing to speak to us this morning.

## Examination of witnesses

Witnesses: Rebecca Hilsenrath and Karl Banister.

Q37 **Chair:** Welcome, everybody, to our second panel at the Work and Pensions Select Committee this morning for our evidence session on the ombudsman's report on the changes in women's State Pension age. I am grateful to both witnesses for joining us. I will ask each of you to tell us very briefly who you are, starting with Rebecca Hilsenrath.

**Rebecca Hilsenrath:** I am Rebecca Hilsenrath. I am the Interim Parliamentary and Health Service Ombudsman. I would like to make a few remarks, if I can, but can I pass to my colleague to introduce himself first?

**Chair:** Karl Banister, please do, yes.

**Karl Banister:** I am Karl Banister. I am Director of Operations, Legal and Clinical at the Parliamentary and Health Service Ombudsman. I am also Deputy Ombudsman.

**Chair:** Thank you very much. Rebecca, you wanted to say a few words?

**Rebecca Hilsenrath:** Thank you very much, Chair. First of all, I would like to thank you and the Committee very much for making time to look at this important matter with us today. I know that your time is under a huge amount of pressure. As you know, last time I appeared before you I was the Chief Executive and I come here today as the Ombudsman. When I was appointed Chief Executive last summer, since that point I have had quite close oversight of this case. Karl supports me today but generally, as the Deputy Ombudsman and as Director of Operations and Legal he has had very close involvement with this case throughout, so it is helpful to have him here.

Q38 **Chair:** When was the start from your point of view? When did this all begin?

**Karl Banister:** 2018.

**Rebecca Hilsenrath:** I wanted to touch on a couple of things. The first thing I want to say is that I always feel that as the ombudsman we have two roles; one is to address injustice for individuals, the other is to look at systemic failings in public services. In terms of access to justice for individuals, we received 600 cases on this point but we know that it impacted on many hundreds of thousands of other people. Each one of those is a human being, whose plans for their retirement were undermined by the handling of the changes to State Pension age for women.



There is a sense in which each of us spend all of our lives planning for our retirement and that should be a golden time. Autonomy in planning that retirement is key; partly for outcomes but also partly for that sense of dignity and respect, which is about financial empowerment. I say that in the context that financial independence and autonomy for women in this country has always by legacy been an inequality. In the earlier session we heard about 270,000 WASPI women who have already been lost and one dying every 13 minutes. For a long time—I am aware that the length of time has been suboptimal—and in the face of refusal by the Government to accept our findings, the WASPI women have kept going. Jane Cowley said earlier they haven't gone away and they won't go away, and I wanted to pay tribute to them and to recognise what has happened to those whose individual lives are at the heart of this.

The other thing I wanted to offer to do was to go through the outline of our investigation. Would that be helpful?

Q39 **Chair:** Yes; just summarise it, if you would.

**Rebecca Hilsenrath:** Just for a couple of minutes—I know everybody here is aware of the report but in case it is helpful. This was an investigation about DWP communication from 1995 onwards about changes to the State Pension age for women, and the number of National Insurance qualifying years that was necessary for the new state pension. We also looked at complaint handling by the DWP and also by the Independent Case Examiner. As Karl mentioned, we announced the investigation in 2018 and we then began to receive a lot more complaints. We accepted over 600 and had to craft a bespoke approach. We stopped accepting new cases after those 600-odd cases that we received, but we selected six that we felt were representative generally of the issues of the injustice that had been impacted. We kept a log of all the complaints for the purposes of communication but we investigated just those six sample cases going forward.

The investigation had three stages. Stage one considered DWP's communication about the State Pension age. Stage two considered DWP's communication about National Insurance qualifying years, it considered the DWP and the Independent Case Examiner's complaint handling, and it considered whether any failings identified had led to injustice. Stage three looked at remedy.

We published stage one in July 2021 and that found that between 1995 and 2004, communication about the State Pension age met standards in terms of information being available, but in 2005 research conducted the previous year showed that the information should be disseminated in a more targeted way. DWP essentially failed to give due regard to that and continued communicating in the same way instead of looking at improvements in the services side, and that was maladministration.

In 2006 further research showed that the information was not reaching those that it needed to reach. DWP proposed writing to women



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individually to tell them about changes to State Pension age but failed to act on that promptly. That we also found to be a maladministration and that maladministration led to delay in DWP writing to the affected women.

In March 2024 we published stage two and stage three in a single report. We found that there was clear information available in relation to changes to National Insurance qualifying years but the DWP did not use that research, showing that it was not reaching the target audience in terms of improving on their service design, and that was maladministration.

**Q40 Chair:** Could I interrupt you? You made the point that the need for communication was identified in 2005-06 but nothing seems to have been done at that particular time. Do you know why not? Have you been able to find out why nothing was done?

**Rebecca Hilsenrath:** I don't think I can comment on why. I can only comment on the fact that we knew that the DWP had the research and we knew what it was telling them about whether or not it was reaching the women involved. But our investigation didn't show that sufficient action was taken on the back of that, or sufficiently quickly.

**Chair:** I think the other points probably will come up in answers to questions from my colleagues.

**Q41 Debbie Abrahams:** You probably heard the questions that I posed to the previous panel. Do you have anything you really wanted to add to that about why you chose to deliver the report to Parliament rather than to the Government's DWP Department?

**Rebecca Hilsenrath:** That is really helpful, thank you for opening that conversation. It is important to say for the record that over 99% of our reports meet with compliance by the organisations we investigate. In some ways that is a key outcome of the way we work. I know that we will come on to our investigation, but it obviously is punctuated by times where we provide provisional views, we listen to comments, we look at feedback, we adjust what we are saying. The methodology by which we work is about bringing people with us and that largely—almost entirely, in fact—is successful.

On an extremely small number of occasions—three or four, I believe, over the past decade—we have laid a report in Parliament because of non-compliance. This instance was unique because in fact we laid the report in Parliament without first going to the body in jurisdiction and giving them the report. The reason for that was that during the course of our investigation we had been given repeatedly to understand that the Department did not accept our findings.

Going back to the previous conversation, we know that 270,000 WASPI women have already sadly died, we know that time is of the essence, we know it impacts on a very large number of people and we didn't feel that it was appropriate to go through what our experience and our



communications with the Government led us to believe would be essentially quite a prolonged conversation, a wait-and-see space, and we thought it was appropriate to go straight to Parliament in order to essentially speed the process up.

**Q42 Debbie Abrahams:** Given the conversations that we had with the previous panel, you will be aware of the difficulties that Parliament will also find in this. Have you got a particular view in terms of how Parliament could devise a Bill and have that agreed? What were the thoughts behind how Parliament could address this more speedily?

**Rebecca Hilsenrath:** First of all, I acknowledge the challenge and the difficulty. To go back briefly to my previous answer, it is important to recognise that I am the Parliamentary Ombudsman, and that means that I am appointed by Parliament to carry out the investigations that we do. I am not a regulator; that is not what I am there for. I am accountable to Parliament through the Public Administration and Constitutional Affairs Committee, and therefore it is an automatic route for me if we don't find compliance, to go to Parliament. I recognise it is not a clear cut situation, I recognise there is not an obvious space to go to, but it comes within the remit of how the organisation was set up, what its job is and how its accountability works.

Many of the obvious routes for compensation have been rehearsed. Obviously we are enormously grateful for this Select Committee and perhaps other Select Committees to exercise their time in holding the Government to account. It is primarily for the Secretary of State for Work and Pensions at this point to set out their response to our report and we have yet to hear that response. We hope that the Select Committees can move forward to hold the Government to account on that piece. We are also aware—again this was rehearsed earlier—that there is a debate coming up, there are Private Members' Bills, but I recognise the difficulty that we are simply pursuing the course that is set out for us in our legislation as a parliamentary body.

**Q43 Debbie Abrahams:** Karl, do you want to add to that?

**Karl Banister:** The context is unusual. We don't normally do three-stage reports and we can say something about that later on if it is relevant. It is unusual for us to do that. We had in fact published stage one, so it is different to a conversation where there is a provisional view and it is unclear what the Department might do. When Rebecca said it was clear to us, it was absolutely clear to us, stage one had been out there for some time, DWP had not accepted the contents of stage one.

The second thing was to underline how routine is not the right word for this but it is completely part of the way we operate, that if there is not compliance with a report we lay it before Parliament. The WASPI - representatives recognise this; we were short-circuiting that process. That does not imply that we think there is a silver bullet for Parliament to do something about that. What has always been part of the system—and



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generally supervised by PACAC rather than this Committee—is that the first thing the Committee is expected to do is to call the relevant permanent secretary and ask them to give an account of why they are not complying with the recommendations. There is a process of engagement and it is moving towards that before the next stages of what you might do.

The other thing I would say is I think we have been pretty clear in the report with deference to Parliament, so we have phrased it slightly differently than we would have done had it been a report going direct to DWP. We have been pretty clear about what we think the remedy should be.

**Q44 Debbie Abrahams:** As an aside, is the DWP the only Department that you have had these issues with?

**Rebecca Hilsenrath:** Obviously the specifics around communication around pensions is a DWP issue, but I would say that across both our jurisdictions—by which I mean health on the one hand and Government Departments and public bodies on the other—communication is probably up there as one of the most common themes in terms of what does not go well. The Chair has already alluded to the fact that this has been a very long-running thing that is not specific to one Government or another. It is also an issue that we see cutting across every public body that we work with.

**Q45 Debbie Abrahams:** We have questioned DWP about Ms U, an ESA case, where it admitted maladministration in response to an individual complaint but rejected your findings that there was a systemic issue to address. Is there a precedent for DWP rejecting a finding of maladministration altogether?

**Rebecca Hilsenrath:** The obvious answer is yes. The Ms U case that you have outlined was two years ago, where the DWP did correct the error and pay the arrears to the individual impacted but declined to pay compensation to, I believe, 118,000 other people who were impacted by the same error. It is not the case that the DWP is the only organisation we investigate who have refused compliance, but it is probably the most recent case where that has happened.

**Q46 Debbie Abrahams:** You say 118,000 other people with the same issue as Ms U and the DWP has not found that to be a systemic issue with the system. I do not understand how they cannot find that.

**Rebecca Hilsenrath:** To be absolutely accurate, it was not that they did not believe it was a systemic issue, and they did correct the error, but what they said to us is that going proactively out to those other individuals and offering compensation was not a reasonable or proportionate action to take. What they did say that they would do is to deal with it on a case-by-case basis. In a sense this goes back to the comments made by Jane and Angela in the previous panel; it is about the burden that you put on the individual citizen first of all to recognise that





they have a particular right and, secondly, to go through the bureaucracy of applying for help. I know there has been an exchange of letters on this and I think we talked about it when I was last in front of you, but I believe the number of people who have been compensated is in the double-digit figures.

**Q47 Caroline Nokes:** You sat through the earlier evidence that we had. How do you respond to the previously aired concerns that have been repeated today that you were very modest in your approach to compensation—“conservative” I think was the complaint—and your assessment of injustice?

**Rebecca Hilsenrath:** First of all, I would go back to my previous comments. I recognise the impacts on so many individuals and I recognise that the WASPI women would have liked a higher level of compensation. I would like to stress—Rebecca Long-Bailey I think made this point—that the findings and the recommendations that we made were based on the sample cases that we dealt with. We did not find any instance there of direct financial loss but we do not exclude that possibly being the case in other cases. The findings and the recommendations that we made in level 4 of our scale of injustice—the point I want to stress is that obviously because we investigate other organisations in terms of maladministration, the need to properly comply with established processes also applies to us. We have a very clear published scale of injustice that sets out the typography of complaints with examples of injustice and what that impact looks like. It is, therefore, important that we comply with that, as it is for any other organisations that we investigate.

We looked at this very carefully and we feel that the level 4 general description of what the impact looked like for individual women was right. We also looked at the case examples cited both at level 4 and also to the higher levels, and we felt that those indicated to us quite clearly that they were level 4 cases. I recognise the strength of feeling on this and I recognise the hardship. The previous panel looked at this and talked about level 6 compensation; we look at level 6 compensation under our health jurisdiction for potentially avoidable deaths. It is an extremely serious level of impact and this is from an organisation that is not primarily about financial compensation. Most people who come to us are motivated by the fact that they want an apology and they want the system to change to ensure that other people don't suffer the same experience that they had. I don't want to make in any sense a flip comment here, but we are not a tribunal or a court and we will not award the kind of very high levels of compensation that you see in negligence cases. It is about looking at the context that we operate in, the methodology that we use and the output that we are looking for. Did you want to add to that, Karl?

**Karl Banister:** The only thing I would add is that the language necessarily overlaps in the descriptions. It is quite easy to read any of the



descriptions in our remedies scale and think it could apply to a serious or a non-serious event. You have to look at the comparators, as Rebecca said, and you have to think about why they overlap and so on. We have to apply it consistently or, as Rebecca said, we would be doing what we ask Departments not to do, which is not applying our guidance. But it is understandable why people would read the remedy guidance and think, "Well, why wouldn't it be here?" We understand that.

**Q48 Caroline Nokes:** Did you consider that if you had widened the number of cases you looked at you might have come to a different conclusion?

**Rebecca Hilsenrath:** This probably comes back to the question of the extent to which any compensation scheme needs to be individualised. The truth of the matter is we looked at the cases that we had. We stopped looking after we had 600 cases and the six cases that we took were representative of the 600 that we looked at. I know that there is an important conversation to be had about the length of time that we spent on the investigation. I am very happy to have that and I am not here to say we don't have lessons to learn, but if we had looked at thousands of cases so that we built into our investigation any perhaps that came to us with direct financial loss it would have taken many more years.

**Q49 Caroline Nokes:** If there had been an assumption that the DWP should have been more urgent in its communications with impacted women, might that have resulted in a higher level of compensation?

**Rebecca Hilsenrath:** I am sorry; I am not sure I understand.

**Caroline Nokes:** If you had worked on the premise that the DWP should have been much more urgent in its communications with women, if it should have given far more notice than it did, might that have led you to the belief that the individuals impacted should have had a higher level of compensation?

**Karl Banister:** Do you mean, in speculation, if the DWP should have communicated 10 years before instead of—

**Caroline Nokes:** Yes, absolutely.

**Karl Banister:** That might have had an impact because it might have meant that the impact on individuals on average was worse, because time is a factor in our consideration. It might have done.

**Q50 Caroline Nokes:** Did you change your guidance and why, so that in cases like this remedies would be based on the severity of the injustice rather than reflecting actual financial loss? Or has your guidance stayed consistent?

**Karl Banister:** Since I have been at the organisation the guidance has been consistent but what we did do after I joined was publish it. We reframed the guidance before I was there and I think there were some subtle differences in it but I don't think we necessarily intended it to look as different as it did, I think with reference to Equitable Life. But when we



published the guidance we wanted to make it absolutely clear how it worked, and that led to a conversation about direct financial loss and so on, which you have seen referenced in the conversations we have had.

**Q51 Chair:** I put this question to Angela and Jane, and I am interested to know your comments on this: does the ombudsman take the view that citizens have a duty to keep themselves abreast of changes in the law that affect them? Is your thinking on that subject reflected in the recommendation you made about compensation here?

**Rebecca Hilsenrath:** I would probably answer it the other way around. I think that public sector bodies—and actually private sector bodies as well—have an obligation to ensure that their services are user-focused. If there is one thing that I would like the DWP to take away from this, it is to ensure that it is working with service users to ensure that the information that it is providing is reaching the target audience. That, as we know, lies at the heart of the maladministration that we found, because they weren't.

I don't think it is possible to issue guidance or information of any kind and just assume that the world that you are releasing it into is homogenous and that, because you can press a button and it can be on this channel or that channel, everyone is going to read it the same. We live in a world where there is a huge emphasis, rightly so, on inclusion. Part of that is recognising that some people need more support than others to understand what actually is, in this instance, really complex information.

Some people will be more impacted by it. Therefore, while on one level it is absolutely true—and I think again, the previous panel made a comment about ignorance of the law not being a defence, and that is obviously a reference to criminal law—it is nevertheless the case that we have a more sophisticated understanding at this point about the need to ensure that if you are providing a public service, it is actually engaging with people in the way they need to be engaged with. If that fails, then the service fails. That is actually not the purpose of the service or the objective of the way that we work in this community.

**Q52 Chair:** Do citizens have responsibilities in this area?

**Rebecca Hilsenrath:** I don't think I would say they wouldn't, but I think the primary actor here is the service provider, and that is probably the best place to start if you are looking at why this went wrong.

**Karl Banister:** The DWP itself—this is from our report quoting a DWP policy statement—says: "All information provided by DWP should be appropriate, relevant, correct, up-to-date, clear, concise, to the point, helpful and targeted." It also says: "DWP has a duty to give information or advice to inform the public about any new policies and developments that may affect them and, crucially, keep them informed on a continuing basis of their rights and responsibilities. It would be unreasonable for the



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Department not to do this, and it is clearly a necessary part of our business.”

So, you could just say that all we have done is ask the DWP to do what it says it wants to do. Its research showed it that that was not happening. DWP had told itself that it should do that. To some extent, whether people should keep themselves informed is not relevant to what DWP itself should be doing in relation to its own policies.

**Q53 David Linden:** Let’s play devil’s advocate. You have asked Parliament to identify a mechanism to resolve the issue. Isn’t the DWP better placed to resolve it?

**Rebecca Hilsenrath:** Absolutely. We have written a report. The report has been received by the Department and it is for the Secretary of State for Work and Pensions to respond to that. We are waiting to hear from him. We are more than happy to have a conversation at any point; we would welcome it.

I should emphasise that we have had continuous involvement with the DWP at ministerial level, at permanent secretary level, and downwards throughout this. We completely recognise that the best thing for the individuals in this case is for the Government to address the findings.

**Q54 David Linden:** Just to be clear, can Parliament implement remedy without the Government’s support?

**Rebecca Hilsenrath:** No, but that is not really where our actions come from. I have been very clear that this is for Parliament to hold Government to account in order for compensation to be paid to the individuals.

**Q55 David Linden:** Is it fair to say that the Government controls the parliamentary agenda?

**Rebecca Hilsenrath:** That is the case, but I would also add that Parliament is composed of MPs, and I don’t know whether all MPs, but certainly the vast majority of MPs have affected constituents. Many of the MPs in question have very helpfully worked with us and we know the strength of feeling on their part. That is true of some of you here today. We expect MPs to be motivated by the need to help and support their constituents at this point.

**Q56 David Linden:** There is a widespread view that one Parliament cannot be bound by a previous Parliament. The blunt reality is this Parliament will be dissolved this year. There will be an election campaign. What happens when this Parliament dissolves?

**Rebecca Hilsenrath:** In terms of any compensation scheme, that obviously depends on how far down the line it has gone. I recognise, of course, that not all MPs now will be MPs this time next year, but nevertheless, within a parliamentary democracy and recognising the strength of feeling across the board about what has happened, my hope



would be that if this Parliament can take steps towards a resolution of this for the benefit of people who don't have time on their side, that will send a very clear message to any succeeding Parliament and any succeeding Government.

**Q57 David Linden:** You mentioned earlier on that there is very much a hope that the Government will see sense, because ultimately, as you conceded earlier, the Government controls the parliamentary timetable. Given the DWP's, I would argue, intransigence on this particular issue, did at any point the ombudsman consider referring a complaint to the Cabinet Secretary, the most senior civil servant, about the conduct of the DWP in refusing to accept the findings in this case?

**Rebecca Hilsenrath:** I think my answer to that is probably—forgive me if this is irritating, I am repeating my previous answer—

**David Linden:** Politicians do all the time; don't worry.

**Rebecca Hilsenrath:** Thank you. Excellent. That is great. I am the Parliamentary Ombudsman. I have been appointed by Parliament on behalf of Parliament to carry out this particular investigation and therefore the recourse for me, given that I didn't see that the Government was going to accept the recommendations, was to come back to Parliament and to do what the legislative framework asks me to do, which is to lay the report in Parliament.

**Q58 David Linden:** With this, I will close. I hope this does not come to pass, because I represent a great number of 1950s women who are fed up with this. I represent a constituency that is well known for having a very low life expectancy and far too many have died already. If no remedy is provided, which is a very serious prospect, what implications would this have on the standing of the ombudsman and the service it is able to provide if more and more of these women die in exactly same way? Thirteen more women will die during the course of this meeting today.

**Rebecca Hilsenrath:** I will answer that in two parts. I think it has enormous implications in terms of personal hardship and tragedy. Nothing about my answer takes away from that, and that is why I started the session by emphasising the importance of thinking about the individual human lives involved.

In terms of the ombudsman, I go back to comments I made earlier. We are not a regulator. We don't work through hard enforcement powers. Beyond the vast majority of our cases meet with compliance. We do have a specific team that actually delivers mediation rather than casework, but even our casework is undertaken, yes on an investigative basis, yes looking at the evidence, but working to bring people together. When we make a recommendation, the action plan, the steps that are taken, are owned by the organisation that we investigate because of that process of working with people and bringing them with us. A hard-edged



enforcement plan that just says, "Under section whatever you have to do this" would not get us where we want to get to.

I come back to that sense of having two jobs. We need to provide access to justice for individuals who have suffered an unremedied injustice, but we are also about establishing a learning culture and improving public services. That is absolutely inherent in how we work, and not being a regulator of the kind that would need the hard-edged powers. I do believe that because with all the people who deal with us, both individuals and organisations we investigate, more than 99% of the time that leads to compliance, my hope is that it wouldn't actually have any implications for the standing of the ombudsman. Do you want to add to that?

**Karl Banister:** We want everyone to comply with our recommendations, but it is implicit in the scheme that because we don't have enforcement powers, it may be, sometimes, that an organisation thinks it doesn't want to. Then the partnership is that Parliament, as our supervisor, will do something about that. I think what would damage the standing of the ombudsman is if Parliament declined to do that. Where we have gone to the serious step of laying a report for non-compliance, or in this case for anticipated non-compliance, if Parliament chooses to do nothing with that, that will damage the constitutional position of the ombudsman.

**Rebecca Hilsenrath:** I think the constitutional conundrum or the constitutional deficit, if you like, is really about the relationship between Parliament and the DWP. The DWP ought to respect what Parliament says, both in terms of what the parliamentary ombudsman has said and also now what Parliament has said, and if there is a gap and if there is a problem, it is there. We are enormously grateful for your time and your consideration, and also for the actions of PACAC in this regard, because that is what the legislation aims to ensure happens, and that bit has happened and that is really important.

Q59 **Caroline Nokes:** I am going to take up right there on that point. That bit has happened. I know that you wrote to Sir Stephen as Chair of this Committee, to the Chair of PACAC and indeed to me as the Chair of the Women and Equalities Select Committee, putting it on our shoulders to make Parliament act. Do you share my fear that the DWP has form in this respect—in the same way that they would not discuss with the WASPI campaign anything to do with it while the ombudsman was looking at it, that the DWP might also take the view, "Oh, look at all these Select Committees, they are looking at it. We will wait until they have come up with recommendations," which they might, in due course, ignore and this has given them an opportunity to kick it into the long grass again?

**Rebecca Hilsenrath:** I have enormous amounts of faith in you as a Select Committee and other Select Committees. I know that PACAC has written to the Secretary of State. At any point, the Secretary of State can actually cut short all these complications by accepting the findings. My hope is that he will, but I also hope that, rather than having any sort of



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platform to wait until after the Select Committees have finished any considerations, he will be part of this, and that Select Committees will ask the Secretary of State and the Permanent Secretary of the DWP to come and talk to you, and therefore that becomes part of this process rather than something that happens after.

**Q60 Caroline Nokes:** I am sure this Select Committee suffers from the same frustration that mine does—that we make recommendations to various Government Departments, which then get rejected. What is the danger there that this Committee makes a recommendation to the DWP and the DWP just rejects that? Where do we go next?

**Rebecca Hilsenrath:** My hope is that given the strength of public feeling, which we heard about earlier in the WASPI campaign's recent survey that shows the number of people who believe that they should be provided with compensation, given how much that comes to bear in an election year, given the number of people impacted, and given the amount of time that is being lost to those who are at the heart of this, conversations can be had with the Government that enable it to understand the need to act.

**Q61 Chair:** I have a few questions about the recommendations that you have made. The scheme you have proposed would entail payment to women who did know about the change and who made plans accordingly. Do you think that is a problem or not?

**Rebecca Hilsenrath:** Karl may want to pick up on some of the detail of this, but I think that, to an extent, this has been rehearsed in the previous panel. Our starting point is that any compensation scheme ought to look at every case on a case-by-case basis to look at individual injustice and impact. My understanding of DWP guidance is similar, and that is how compensation schemes ought to happen across the board. That was the basis on which we wrote our report in the first place.

Against that, it has to be understood that, again, time is not on the side of these individuals. It has to be understood that any compensation scheme needs to be looked at through the lens of managing public money. The Treasury framework, which does look at value for money and effectiveness, and the amount of time that is spent simply on the mechanism for looking at compensation. I know that the National Audit Office is looking at compensation schemes, coming out of a recommendation from the Public Accounts Committee, and I believe it is making recommendations in the summer. Looking at what actually happens on a case-by-case basis is a balancing act. I recognise that a flat rate is going to be the easiest and quickest way to go, but it will mean some women are undercompensated and some women are overcompensated.

It was interesting listening to the previous panel, who suggested a two-tier approach whereby people whose injustice is perhaps more straightforward were given a quicker compensation and others taken into



a more complicated, more complex scheme. There might be room within that space for some sort of low-level immediate payment with a provision for further payment beyond that. It is a balancing act between time and money on the one hand and individualised justice on the other.

**Q62 Chair:** Your recommendation is for a level 4 scheme, and that would be regardless of the extent of the pension age increase that the individual experienced or how much notice they had, would it?

**Rebecca Hilsenrath:** Within level 4, there is obviously a range. We also looked at that recommendation on the basis of the six sample cases. We are not ruling out the fact that there might be other elements, other cases where a different level of compensation might be appropriate. It isn't just about the amount of notice; it is about lots of different factors in relation to each woman that would lead to the particular impact.

**Karl Banister:** Our recommendation is if the Department was going to do a flat scheme without investigation, then level 4, based on the six sample complaints we had had, all of which were somewhere in that range, and it seemed very likely to us that most would be because of the range we had had in the sample complainants. On the other hand, if the Department felt that that was inappropriate because of the reasons you have said about compensation sometimes going to people who would have known, then it was open to it to design a different scheme.

In that case, we said, it had to be proportionate to the issue for the reasons Rebecca said; it should not be something that required lots of investigation. It should be something that enabled the Department to satisfy itself and manage in a different way. It is for the Department to set that out. It is an operational decision but, in a way, if we did not set out the alternative approach, there is no incentive to do that.

**Q63 Chair:** Are there precedents here that we could look at to see how comparable problems have been addressed in the past with compensation schemes, or is this really without precedent?

**Rebecca Hilsenrath:** There is a precedent for PHSO making recommendations for a compensation scheme in relation, in fact, to pension payments. I wonder whether, in terms of looking at how schemes operate, it might be helpful to look at the current work being undertaken by the NAO because they are making this report to PAC later in the summer. Therefore, they must have been looking at a number of compensation schemes and they would have the kind of evidence and data to inform one that needs to be set up now.

**Q64 Chair:** A couple of questions that look a bit beyond this particular case, very large though it is. You suggested in your final report that there is a systemic failure in the way that DWP responds to research and to feedback. What makes you think there is a wider problem than simply this one?





**Karl Banister:** We pointed particularly to their response to research and feedback in this case. If you have drawn the conclusion that we think there is a broader issue, then I think that might be based on the reaction to our report, which is not to accept the particular case and say, "But we are unable to pay compensation," not to apologise and acknowledge and to suggest what they are going to do about it but say, "We are unable to pay compensation," but simply to say we are wrong. That might suggest that the lessons that should be learned from this have not been learned—although there is work going on at DWP, we are told, to look at improvement and so on, but it might be taken that way. I wondered if that was what gave you that impression.

Q65 **Chair:** I think in your final report you referred to a "systemic failure" and I understood that to mean that there was something in the way that the Department looks at these things generally which was wrong.

**Karl Banister:** We used the word "systemic" in that context because of the huge numbers of people affected and the period of time over which it occurred.

Q66 **Chair:** Okay. As you say, the Department says it has put things right by modernising and digitising. Do you think it has? Are you persuaded by that?

**Rebecca Hilsenrath:** First of all, I think that the key thing that we would want to see from the Department would be a commitment to learning to avoid what has happened. There is a sense that it needs to accept the findings before we would be convinced that has happened. That is really about being committed to a learning culture, especially because, as was again discussed in the previous session, there will be further changes to State Pension. We need to make sure it does not happen again.

I would say three things. First of all, there is a really key thing here about learning from complaints. The UK central government complaint standards, which we launched in 2022, co-produced with Government bodies—which I have to say the DWP has welcomed, although it has not stood up as a trailblazer in that space, and the Independent Case Examiner actually is a member of our working group—are really key in terms of helping Government Departments and others to ensure that they are learning from complaints. We would like to see that embedded in DWP and see that they are really learning what they can from when things go wrong.

The second thing, I have already touched on. I think that the thing above all that I would like to see DWP doing, going forward, is around ensuring that there is a user focus that is really embedded in how they are working, and that is about improving their understanding by engaging properly with those who use the service, those who have lived experience with benefits and pensions. We have our own public engagement and advisory group where we are working with complainants ourselves. We



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are finding this enormously helpful in terms of understanding how to make improvements to our service. I know that there are lots of third sector partners who would like to work more with DWP, and there will be an opportunity to work together nationally and locally.

The last thing I would say is that, yes, of course we are aware of their modernisation programme and we welcome that it will help in terms of technical improvements, but there is something also about demonstrating learning and change to Parliament, to Select Committees, to users. A lot of that is about processes, systems and training, but it is also about ensuring that the culture is really changing in the way that we want it to. In the end, that is really what will make a difference in terms of timely and effective communications.

**Q67 Chair:** Is this about staff training? Is it changes to computer systems? If the Department was to set about really learning the lessons that you have highlighted, what sort of things ought it to be doing in your view?

**Rebecca Hilsenrath:** My understanding is that the DWP has said that some of the things that were challenging with rolling out communications as quickly as they should have, were to do with the actual case management system. I am not here to comment on that in detail. Effective service provision will always be dependent to an extent on technical processes, but the key thing for us is about culture.

I spoke about the complaint standards earlier. That is quite a good example in a way. The complaint standards that we rolled out set expectations about how complaints will be handled. We have national health service complaint standards and separate ones looking at Government Departments and public sector bodies. A lot of it is aimed at ensuring proper support and training for complaints handling teams, but it is a cultural piece that needs to be led from the top.

When we published the complaint standards originally, it was in the back of some research we did where we spoke to leaders in many organisations and said, "So, tell us about your complaint handling work?" and they spoke about how important it was and how well supported it was. Then we spoke to the complaints teams and they said, "Well, we are undervalued and undertrained and under-resourced." How you learn from complaints is key for any public body, any private body, but that is not just about the people on the ground. Culture comes from the top. It is a leadership issue, and it goes all the way through service, all the way through user focus, all the way through how you turn complaints into an opportunity to learn as opposed to something to bat away and protect yourself and be defensive about. That is the key piece here for us. It is not about the case management system.

**Q68 Chair:** Finally, looking back on the six-year period when you have been looking at this, are there ways that you think you ought to have done things differently that perhaps would have led to a conclusion sooner? Are there lessons for the ombudsman in what has happened in this time?



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**Rebecca Hilsenrath:** I cannot say what I just said about the DWP without saying that we are a learning organisation. I will give you my view and I will pass over to Karl, who may want to add to it.

Of course we want to reflect. We always do after any investigation, and there has been nothing of the size of this, certainly in recent history, to learn if we could have done things better. I think it is important to say at the start that it was an extremely complex organisation with thousands of pages of very complex evidence, and delays outside our control, and it is important that established processes do give us pause to consider and reflect. There was also more than one legal challenge.

We are looking more broadly at how we work in terms of systemic investigations. Karl may want to say more about that. I think there is some learning about what worked. We had a cross-organisational, multidisciplinary approach, which was really effective. Our stakeholder engagement throughout was really effective.

I think one of the things that we would do differently, and Karl alluded to this, was our three-stage investigation. The reason why we did it was because when we looked at the cases, they were all pointing towards how communication flowed in terms of the 1995 Act changes. I think it was felt that if we could address that first and then get that out, it would give people a sense of progress and we were then able to look at everything else sequentially. Looking back, we might say that actually that led to more delay.

I think that we took some other learning from it. I will not dwell on this question about whether we want more powers to compel. I think I have answered that point. We don't. We don't want to go into that regulatory space. We want to continue as an ombudsman to work with individuals and with organisations to support learning.

I will add two other things and then pass over to Karl. I think one real positive from this case has been the way we have worked with MPs, and I have said already this morning that many MPs have worked with us to support their constituents. That has been an extraordinarily effective partnership for which we are really, really grateful. It is critical that that partnership continues, but I think it is also fair to say that we have asked in the past, and we continue to ask, for the mandatory nature of the referral from MPs to be reviewed and discontinued, as is in fact the case in relation to the Victim and Prisoners Bill currently going through Parliament, where it is been discontinued for complaints under the Victims Code particularly.

That is about putting the individual at the heart of the process, because for all the many thousands of WASPI women who have come to their MPs, we know that there are many others who did not. In this instance, they were supported by the fact that their co-complainants, as it were, came to their MPs, but if it were not for that, the voices of those women would have been completely silenced. We know that—it is with enormous



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respect to all MPs, including those present—there are some people who are not comfortable approaching their MPs and we know that that builds in bureaucracy and delay to the process. We feel that actually our learning from this process is that there is a stronger case to look at the mandatory nature of the MP referral.

The other thing I would say is, going back to my comments about the complaint standards, that for us, because of the failings in the DWP complaints handling, it underlies the importance of all Government Departments adopting our complaint standards and looking at raising levels of standards of complaints handling. We would like the Cabinet Office to be proactive here and to take a lead in working with all Government Departments to ensure that the complaint standards are adopted across the piece. Did you want to add to what I said?

**Chair:** Sadly, our time is up.

**Rebecca Hilsenrath:** Sorry.

**Chair:** If there were some other points you wanted to make, do drop us an email. We would be keen to see those. Thank you very much for all the work that has gone into this, you and your colleagues. Thank you for your report and for being willing to speak to us this afternoon. That concludes our questions and our meeting.