Dame Meg Hillier MP
Chair of Committee of Public Accounts

7 December 2021

Re: State Pension Correction Exercise

Dear Meg,

I am grateful to you and the Committee for the work that you are doing in light of the NAO's report on the DWP's state pension correction exercise.

I wanted to draw your attention to a letter which I sent yesterday to the Permanent Secretary at the DWP who gave oral evidence to you as part of your current inquiry. The letter is appended in full to this letter, and you have my permission to publish in full if you wish, but the key point is that I believe the scope of the correction exercise is too narrow and should be extended to included divorced people.

The attached letter explains the background in more detail, but the key points are:

- The current exercise focuses on three specific and narrowly defined groups – married women (and some married men), widows (and some widowers) and the over 80s;
- DWP appear to have looked at the position of divorced people but the NAO report at para 3.7 says:

  "The Department did not find any significant evidence that it had failed to properly process cases where a pensioner had notified it of their divorce". (Investigation into the underpayment of State Pension (nao.org.uk))

However, I have several reasons for questioning whether DWP is right to exclude divorced people from the correction exercise. These are:

- In October 2021 (after the NAO report had been published) DWP has provided figures on women on the 'old' state pension system broken down by marital status State Pension underpayments: progress on cases reviewed to 30 September 2021 - GOV.UK (www.gov.uk). These figures show that there are 720,000 divorced women on the old state pension system. Of these, 40,000 are on very low pensions indeed (less than £82.45 per week). But a divorced woman who uses her ex husband's NI record instead of her own up to the date of her divorce can qualify for anything up to a full basic pension of £137.60. There appear to be many tens of thousands (or more) of divorced women below this rate, and even a modest percentage error rate could mean a lot of women losing out.

- The type of error which caused the problem which DWP is now rectifying occurs when there is a change of circumstances (husband retires, husband dies, pensioner turns 80) and no pension reassessment takes place; exactly the same issue can (and does) arise when someone phones up to report a divorce; why should we think DWP was immune to this problem uniquely in the case of post-retirement divorcees?

- In recent months I have come across several individual cases of divorced women who were being paid the wrong amount (or no pension at all) and in each case DWP has accepted that money is due and has paid substantial arrears. The individual cases I have supplied cover three worrying scenarios:

    - Women who were divorced *at retirement* and should have had their pension assessed automatically using an ex husband's record but this did not happen;

    - Women who divorced *post retirement* and told DWP and should have had their pension reassessed at that point but this never happened;

    - Women who were told at retirement that they had no pension entitlement so did not claim, only to discover later that they had an extensive pension entitlement based on their ex husband's record;

I accept that it is difficult to generalise on the basis of a handful of case studies, but the Committee will recall that this whole issue started off with individual cases being brought to the Department's attention and the Department dismissing them as isolated one-off cases. It is important that history does not repeat itself.

I don't doubt that DWP has had a look at this issue and has decided that there was not 'significant evidence' of errors, but we do not know a) how many cases they looked at before coming to this conclusion and b) what threshold they used to decide what a 'significant' level of error would be. Given the complexity of divorce cases, I also wonder how much quality assurance went on, as I have one recent case from 2021 where DWP wrote and told a divorced woman she was on the correct rate only to admit an error a few months later.

I hope that the Committee will be able to press the Department to be transparent on this point and to ensure that divorced people are treated in the same way as all other state pension recipients.

With best wishes,

Sir Steve Webb, Partner, LCP

Appendix: Letter sent to the DWP

[BY EMAIL]

To: Peter Schofield, Permanent Secretary, Department of Work and Pensions

From: Steve Webb, partner, LCP

Date: Monday 6th December 2021

Re: State Pension Correction Exercise

FORMAL REQUEST FOR EXPANSION OF SCOPE OF STATE PENSION CORRECTION EXERCISE TO INCLUDE DIVORCED PEOPLE

In your departmental report and accounts for 2020/21 you set aside around £1 billion for repayments to over 100,000 people in respect of state pension underpayments. The three groups identified are:

- Married women (and some married men) who did not receive the 60% “Category BL” pension when their spouse claimed a state pension;

- Widows (and some widowers) whose pension was not ‘converted’ to a “Category B” pension when their spouse died;

- Over 80s in receipt of a state pension who were not upgraded to the “Category D” rate when they reached 80.

The purpose of this letter is to ask you to expand the scope of this exercise to include two further groups where I believe there is evidence of administrative error. These are:

- Women (and some men) who were divorced at pension age but whose pension was not assessed on the basis of their ex-spouse’s contributions;

- Women (and some men) who divorced post pension age *and notified DWP of this fact* but where their pension was not reassessed on the basis of their ex-spouse’s contributions;

I had hoped to discuss these issues with your team informally but, as you may know, our planned meeting for this week has been abruptly cancelled by the Department, so I am writing formally. I am copying this letter to the chairs of the Work and Pensions Committee and the Public Accounts Committee and to the NAO, as I believe its contents may be of interest to them. I will also be putting this letter into the public domain.

Why should the Department look again at divorced women?

I note that paragraph 3.7 of the NAO report into state pension errors says:

"The Department did not find any significant evidence that it had failed to properly process cases where a pensioner had notified it of their divorce". (Investigation into the underpayment of State Pension (nao.org.uk))

There are three reasons why I believe the Department should reconsider its decision not to include divorced women in the scope of the state pension correction exercise.

a) Aggregate statistical data

In its helpful statistical update on the correction exercise published in October 2021 (**Error! Hyperlink reference not valid.**), the DWP says that there are 688,000 divorced women in GB receiving a 'pre-2016' state pension. Of these, 24,000 are receiving less than the standard 60% rate for a married woman (currently £82.45 per week). In addition, another 16,000 divorced women outside GB but in 'non-frozen' countries are receiving these very low pensions.

Whilst it is perfectly possible for a divorced woman to be correctly getting a pension this low, you will be aware that a divorced woman can actually get up to a 100% basic pension using her ex husband's contributions, depending on when the divorce happened. Although the Department has not published figures, I suspect we could easily be talking well over 100,000 divorced women in GB and beyond on less than a full basic pension. Even if only a small percentage of these cases was in error, the underpayment would run into tens of millions of pounds.

b) Similarity to other cases of error

In all of the cases of error which the Department is now seeking to correct, the failing was that a prompt was missed to reassess someone's state pension –when a spouse turned 65, when a spouse died or when the individual turned 80. There is a clear parallel with divorce cases, particularly for those over pension age. As reported below, I have several examples where the DWP was notified that a woman in receipt of pension had now divorced but where the pension was not reassessed.

If the Department accepts that a failure to act on a change in circumstances can cause widows and others to be underpaid, why not accept that divorced women could be missing out for exactly the same reason?

I would add that it is widely accepted that calculating state pensions for divorced people is a complex area and the Department only has a limited number of people who have the necessary expertise. This clearly increases the potential for error and should lead the Department to be more willing to check this group of cases, including for those divorced at point of retirement.

c) Individual cases

As you know, the original problem came to light when I, along with This is Money, brought individual cases to your attention. The Department's initial reaction was that these were isolated cases, but eventually it had to accept that there was a systematic problem. I believe the same may be true for divorced women and am providing below a summary of five cases where divorced women have ended up on the wrong rate of pension (or, in one case, no pension at all). I have anonymised the cases but am happy to supply NI numbers etc., though the Department has in fact already looked into all five cases at my request and in each case has paid out arrears.

<u>Women who were divorced at point of claiming their state pension but where the ex husband's NI record was not used</u>;

In a recent case of Mrs M, who was divorced at point of retirement, she had been underpaid for 13 years since she reached pension age, and has now had her pension increased from £41 pw to £104pw, with arrears of £36,000;

<u>Women who were divorced at point of claiming but were told they had nil entitlement so did not claim</u>

Mrs H was divorced when she reached state pension age but when she contacted the Department she was told on more than one occasion that there was no point in claiming because she had nil entitlement. When I raised her case with the Department earlier this year they said that she was actually entitled to a pension of £142 per week and was awarded a backpayment of over £60,000. Whilst DWP will argue that there was no error because Mrs H had never claimed her pension until recently, if she was put off claiming by repeatedly being told incorrect information then this is clearly an administrative error and could have led to Mrs H never receiving her due amount. This raises the question of how many other people have simply never claimed because of being wrongly informed they had no entitlement.

<u>Women who reported their post-retirement divorce to DWP but no action was taken</u>; for example:

- in a recent shocking case of Mrs C, she notified DWP twice in 2015 of her divorce and nothing was done; she continued to press, and earlier this year wrote in to query her pension; <u>she had a letter back from the Department in 2021 saying all was fine</u>; yet when I took her case to the Department, it was accepted she had been underpaid for 6 years because no action was taken when she originally told the DWP of her divorce; her pension has been increased from £84 per week to £140 per week, with arrears of £16,000;
- Mrs P reported her divorce but the paperwork was scanned to the wrong record and the error not noticed when she rang to query things; she ended up with a pension increase and arrears of over £2,000;

- Mrs H reported her divorce in 2010 but nothing was done; when I took her case up she was awarded over £20,000 in arrears and her pension increased from £83 to £136 per week;

I have no doubt that the Department has considered the case of divorced women but has decided that there is not enough evidence to warrant investigating further – or perhaps that it would not be cost-effective to do so. However, these case studies – and the parallels with the errors which the Department admits – suggest otherwise. Furthermore, if the Department can look in 2021 at the case of a divorced woman and write back saying all is fine, when in fact the wrong rate of pension was obviously being paid, how much confidence can we have that any sample check of divorced women which the Department has so far undertaken is reliable?

I appreciate that divorced women are the smallest group of those who might have a 'derived' right to state pension from a spouse/ex-spouse/late-spouse, so I can see why the Department would prioritise other groups where the scale of the error is more obvious. However, even a small percentage error rate would mean thousands of divorced women being underpaid and owed tens of millions of pounds. Crucially, for each of these individual women, the amounts involved can be life-changing, and they have as much right as anyone to be confident that their pension is being correctly calculated.

I remain happy to discuss these issues in person with you or your team, and look forward to a constructive response to this request.

Yours sincerely,

Sir Steve Webb

Partner, LCP.

Cc

The Rt Hon Stephen Timms MP, Chair, Work and Pensions Committee

Dame Meg Hillier MP, Chair, Public Accounts Committee

Gareth Davies, Comptroller & Auditor General, National Audit Office