

Written evidence submitted by Mr Christopher Thompson

Lack of communication of changes to inflation on GMP's under the new state pension (NSP) that started 6 April 2016 and which became law in May 2014

Organisation: Department for Work and Pensions

I am making this submission as a member of the public who helped two friends take their case to the Parliamentary Ombudsman **where the DWP were found guilty of maladministration**. Their complaints were against the Department of Work and Pensions (DWP) because the DWP did not tell anyone (**including Parliament**) and have still not told up to about 11 million people who were contracted out of state second pension about loss of cost of living increases on part of their occupational pension known as Guaranteed Minimum Pension (GMP)

The report by the Ombudsman mentioned.

Our investigation has found that the DWP failed to tell Mr K, and potentially (**millions of others**) in his situation, that the introduction of the new state pension system could have a negative long-term impact on them. **This is because those individuals would not receive annual increases from the government that they may previously have been entitled to. (I don't know how the Ombudsman could say they would not receive any indexation as it was not mentioned in the legislation or debated in Parliament)** We found that Mr K was aware of the impact of the pension changes. However, the DWP failed to communicate that the pension changes could have a negative impact for some people so that they were aware they might need to seek independent financial advice. This meant that others in Mr K's situation might not have planned adequately if they had relied on the DWP's literature and pension forecasts to plan for their retirement.

In July 2015 the DWP produced a factsheet that mentioned the annual comparison between the second state pension and GMP would not continue. (They did not mention that would mean that GMP indexation would not be paid. Please note this was about fourteen months after it had become law and not before and not aimed at general public. **In any case the annual comparison was not needed because under the 2011 Pension Act dated November 2011 the law was changed to consolidate all GMP indexation after state pension age into the starting amount of NSP which for some reason was not mentioned or carried forward into the NSP.**

This was updated on 12 August 2021 on GOV.UK website and is not called a fact sheet and if a person looked at their mailing list it came up as

New State Pension: if you've been contracted-out of additional State Pension

As you can see no mention that it is about loss of GMP indexation so I don't know how they expect any of the people affected by loss of GMP indexation to find it which is over 11 million people which also includes many of the women affected by change of state pension age.

The DWP were asked by the Parliamentary Ombudsman to ensure that the affected individuals receive appropriate communication from the DWP which they are not doing as they are just relying on the public finding it on GOV.UK website. Please notice it said receive communication not find out by chance.

As far as I am aware loss of GMP indexation was not mentioned in the White Paper or debated in Parliament.

The National Audit Office (NAO) and the Work and Pensions Select Committee produced reports in March 2016 a month before the new state pension was about to start about loss of GMP indexation.

Our findings highlight that the DWP failed to clearly communicate to members of the public that they could be negatively impacted over the course of their retirement by the removal of indexation in relation to the second state pension and GMPs.

We found that Mr K suffered frustration and outrage as a result of the DWP's failure to be open with him and not acknowledge his valid points and concerns. **Further, we found that Mr K spent two years trying to engage the DWP about his concerns and did not receive confirmation that his concerns were valid until we investigated.**

We have also recommended that the DWP should consider, and report back to us, when this report and their response to our recommendations should also be communicated to other interested parties **such as the Chair of the Work and Pensions Select Committee.**

They never communicated the change to the Committee until it was asked for by Stephen Timms about nine months later.

8 March 2014 - The DWP wrote to Mr K's MP in response to Mr K's letter of January 2014. The Minister explained that the government had never paid GMP **no one said they did** for occupational pensions (it paid indexation on the second state pension in relation to GMP – paragraph **If they don't think they pay GMP indexation on the GMP why do they think that public service schemes have now been instructed to pay the GMP indexation previously paid with the state pension.**

10). The Minister admitted that past communications may have given the wrong impression when trying to provide simplified explanations about the complexities of contracting out. The Minister said that after 6 April 2016 the government would no longer pay indexation on the second state pension as the second state pension would no longer exist.

The state additional state pension does still exist as it was subsumed into the starting amount of NSP and continues to receive indexation. In any case GMP ceased accumulating in 1997 so ceasing of contracting out on 6 April 2016 had no effect on the calculation of GMP indexation as in calculating GMP indexation they only used additional state pension up to 1997. I reached state pension age under the old state pension and still continue to receive my GMP indexation which proves it can be done if they wanted to do it.

There is nothing complex in just mentioning that GMP indexation would not be paid under the new state pension. As far as I am aware it is the only change that was not mentioned in the White Paper or debated in Parliament.

September 2014 to October 2015 - The DWP said it issued around 500,000 personalised State Pension statements to people aged 55 and over, who were due to retire in the early years of the new State Pension after 2016. The DWP told us their intention was to help inform them about what they could expect from their new State Pension. It did not include information about the removal of indexation on the second state pension a person would have got if they had not contracted out. In my opinion the DWP deliberately did not mention loss of GMP indexation.

17 November 2014 - The DWP published factsheets to employers and employees, which explained that the second state pension was closing and the end of contracting out.

The factsheets deliberately did not mention that indexation on the second state pension (GMP equivalent) a person would have got if they had not contracted out, would no longer be calculated or paid.

March 2015 - The National Audit Office (the NAO) wrote to the DWP about letters they had received I was one of them. raising questions about the DWP's communication of potential negative impacts on the introduction of the new State Pension. In particular, relating to indexation on GMP.

The NAO recommended that the DWP review their communication strategy **and distribute clear guidance**. Please notice it said distribute not find out by chance. In particular, the NAO suggested that the DWP look at scenarios in relation to GMP indexation increases.

34. The change in legislation is a matter for Parliament and therefore we cannot comment on financial disappointment that arose as a consequence of that. Mr K's complaint was that the DWP did not communicate to the public that the new State Pension meant individuals would not be paid indexation in relation to the second state pension/GMP or that they could be financially worse off because of that under the new State Pension.

35. In order to measure the DWP's actions, we have taken into account their public Service commitments. These all show that the DWP said they were committed to providing truthful, open and effective information to the public about their activities and the impact that these might have on service users. The DWP's service standards (paragraph 15) and customer charter (paragraph 16) showed that DWP considered they could be trusted to get it right in relation to providing correct information, and that they were committed to being helpful and to providing explanations. The DWP's communications strategy (paragraph 17), which was specifically directed at communicating the pension reforms from the Pensions Act 2014, also said that they would build awareness of the impact of any periods of contracting out and that they would make information 'complete, consistent, clear and accurate'. As you can see none of this happened as they were found guilty of maladministration.

42. In short, the DWP's stance - that there was little or no long-term negative impact on those with large GMPs due to reach State Pension Age shortly after 2016 - was not supported by evidence. We will show below how the DWP's flawed view of the long-term impact of the pension reforms affected their communication of the changes to Mr K and other individuals in his situation.

The DWP's communication to the public

43. ' In accordance with their own guidance (paragraph 35) and our Principles (paragraph 36) **we would have expected information about the pension changes to be communicated effectively after the Pensions Act 2014 was passed in May 2014.** This was particularly so in light of the short timeframe for the new State Pension to take effect (23 months from May 2014 to April 2016). In May 2014, the changes had become law and were not subject to change. Therefore, the date when the legislation was made law was the earliest point the DWP could provide information to the public in preparation for, the date the new State Pension would take effect (April 2016).

Therefore, we have considered what explanations the DWP provided to the public after May 2014.

44. **The DWP's Know the Facts campaign from November 2014 did not refer to the ending of indexation or the potential incremental losses individuals could face over their retirement.** This incomplete approach was compounded when the DWP issued their communication strategy in October 2015. At that point the DWP wrongly said that people should be reassured that they would receive more and not less under the new system. In other words, the DWP were continuing to promote their view that the pension reforms would have a positive impact on individuals. This was because the DWP claimed, incorrectly in our view (paragraphs 40 to 42), that any notional losses

~~caused by the ending of indexation on the second state pension/GMP would be offset.~~

I don't see why the DWP thought that because they thought that that ending of GMP indexation that may be offset by what they thought may be gains under other changes would be a reason not to tell people about loss of GMP indexation.

45. It was not until July 2015 (14 months after the legislation had been passed) that the DWP provided a factsheet for the public specifically saying that the relationship between the second state pension and GMP would end. The July 2015 factsheet was the DWP's most open piece of literature about the ending of indexation on GMP/the second state pension.

49. **The evidence above shows that the DWP failed to provide clear, accurate and complete literature to the public about the long-term impact the ending of indexation on the second state pension/GMP could have.** In doing so, the DWP failed to deliver the commitments they made for themselves in their guidance and the communication strategy (paragraphs 15-17). They were not helpful or mindful of their customers' circumstances.

We note the DWP told us that their media campaign was not aimed at the removal of indexation on the second state pension/GMP. Why not?

52. The DWP missed further opportunities to provide more balanced information, after (a) the NAO wrote to them in March 2015 (saying there was a gap in the information/scenarios they were providing to people with large GMPs) and (b) the reports by the NAO and Work and Pensions Committee were published in March 2016

To be clear, the DWP has not fully acknowledged there could be negative consequences to the pension reforms over the long term following the end of indexation on the second state pension/GMP.

I would point out indexation on state second pension never ended as state second pension was subsumed into the NSP and continues to receive indexation

65. In order to remedy the injustice we have identified that resulted from the DWP is maladministration, we recommend that the DWP should:

;

c) Within three months of this report, review and report back on to us on the learning from this investigation, including action being taken to ensure **that affected individuals receive appropriate communication from the DWP (please note it says receive not find out by chance if they happen to see it on GOV.UK website) about their state pensions. In particular, the DWP should ensure that their literature clearly and appropriately references that some individuals, who have large GMPs and reach State Pension Age in the early years of the new State Pension, may be negatively affected by the changes.** The DWP should advise individuals to check their circumstances, and should provide instructions for how to do this;

e) Consider, and report back to us, whether this report and their response to Our recommendations should be communicated to other interested parties

such as the Chair of the Work and Pensions Select Committee.

Which they did not do until August last year about ten months after they were asked to do it and then only because Stephen Timms, Chair of the Work and Pensions Committee asked to see them because I mentioned it to him.

On 12 August 2021 the DWP issued a new fact sheet on GOV.UK website without it being agreed by Stephen Timms and his Committee who had been asked by the Parliamentary Ombudsman to supervise and approve what the DWP were doing or not doing which was in this case approval of the fact sheet,

Regarding the 12 August 2021 fact sheet The Parliamentary Ombudsman asked the DWP to involve people affected by loss of GMP indexation with knowledge of GMP indexation to look at the new fact sheet to comment on it which the DWP assured the Ombudsman they will take the proposed actions to ensure compliance with the ombudsman recommendations agreed to do with the Ombudsman. I now see from information sent to Stephen Timms on 12 August 2021 that the DWP mention that they did not use any one affected with knowledge of GMP indexation. I think they did this deliberately because they did not want anyone with knowledge to ask awkward questions. By only asking people who did not know anything about loss of GMP indexation they got away with providing a fact sheet that is not explaining how much people stand to lose.

The DWP have a short memory regarding testing things on people who do not have any knowledge on what they are being asked to comment on.

In the case of reduction of Inherited SERPs they sent out pension statements to everyone within 10 years of state pension age and mentioned that people would get full SERPS when they were contracted out because they forgot to deduct the contracted out pension from the SERPS. I think about 300 contacted them to say their own SERPS was not correct but they refused to take any notice until a retired senior Government solicitor called Mr Chance contacted them about his pension statement. The DWP finally agreed it was wrong and had to issue half a million correcting letters. Mr Chance submitted evidence to your Committee. I just don't think the DWP are capable of learning from past mistakes ie Inherited SERPS, GMP indexation and now women's state pension age where they were found guilty of maladministration on three occasions.

Back in early 2015 I wrote to Margaret Hodge then Chair of your Committee about the lack of information about loss of GMP indexation and she had the NAO look into it. They did a comprehensive report in March 2016 of their findings. She sent me a reply which you should have amongst your records..

So far the DWP have deliberately ignored requests from the Ombudsman, Work and Pensions Committee and NAO to tell people about loss of GMP indexation which they have not done over six years later since the first request by the NAO.

Also as far as I can see it was never mentioned or debated in Parliament.

In fact I don't think the law was changed because it was never mentioned in the White Paper that because contracting out for future service would end it would mean the ending of GMP indexation.

I think because the law might not have been changed that is why they have been dragging their feet in mentioning loss of GMP indexation which can be over £20,000 and affects over 11 million people many of which will be WASPI women.

September 2021