1. **What just happened? Didn’t the Ombudsman say he was going to fight the judicial review case?**

To recap, [WASPI’s lawyers wrote to the Ombudsman on 8 February 2023](https://www.waspi.co.uk/wp-content/uploads/2023/02/2023.02.08-Pre-action-letter-to-PHSO-REDACTED-v.2.pdf) and asked him to withdraw his Stage 2 report about the injustice caused to 1950s women by the DWP’s maladministration (which was the focus of his [Stage 1 report](https://www.ombudsman.org.uk/sites/default/files/Women%E2%80%99s_State_Pension_age_-_our_findings_on_the_Department_for_Work_and_Pensions_communication_of_changes_Final.pdf)). Although the Stage 2 report has not been published yet, it has been sent to a number of women with outstanding complaints including the six ‘sample complainants’ whose cases the Ombudsman has looked at closely. Astonishingly, the Stage 2 report concluded that none of the six had suffered any direct financial loss because of DWP maladministration, nor had they suffered any loss of opportunities to make different financial choices. Our lawyers’ letter argued the Ombudsman’s reasoning was legally flawed and that this would impact on decisions affecting all 1950s born women who were victims of the DWP’s maladministration. They said WASPI would bring a judicial review if he would not withdraw the Stage 2 report and think again.

The Ombudsman stood his ground, arguing that the case had no merit at all and that he would seek his legal costs of defending himself from WASPI. He also said Alternative Dispute Resolution was unrealistic and refused to engage in it.

So, we instructed our lawyers to proceed with the claim, which they did, elaborating on the arguments in the letter in the ‘[Grounds of Judicial Review](https://www.waspi.co.uk/wp-content/uploads/2023/03/2023.03.01-Statement-of-Facts-and-Grounds-redacted-for-publication_Redacted.pdf?fbclid=IwAR0o5nxFU09lpula29pzunYaAg-NRy5wfDuy9yd59DhDboZj41L0PBmzh2M)’ document.

The Ombudsman then ‘acknowledged service’ of all the Court papers, stating he would defend the claim, but commenting that WASPI’s lawyers and his own were in discussions.

Those discussions concluded at the end of last week with an agreement between the Ombudsman and WASPI that the judicial review claim should be settled. The settlement agreement (reproduced in full in our last update) has been submitted to the Court for approval.

As summarised in the last update, under the settlement:

* the Stage 2 report will be ‘quashed’ (so it will have no legal effect anymore and will have to be reconsidered);
* the Ombudsman accepts the criticisms we made of the Stage 2 report meant it was “legally flawed” and so the reconsideration will focus on those parts of the Stage 2 report;
* the draft Stage 3 report (which discussed what remedies should follow from the flawed Stage 2 report) will have to be reconsidered too; and
* the Ombudsman will pay some of WASPI’s legal costs (see below).

The Court has to approve the settlement for the Stage 2 report to be quashed, but we and the Ombudsman have asked the Court to give it urgent attention.

This is a victory for WASPI – and 1950s born women. It will maximise the chances of compensation for the DWP’s maladministration being decided on a proper basis.

1. **WASPI describes the settlement as ‘a victory’. So was this the outcome WASPI wanted?**

Yes, absolutely. Winning in Court is one thing, but WASPI is pragmatic. We have always taken the view that the best outcome in this case would be an early settlement, which would lead to the Ombudsman’s findings on injustice (which the Ombudsman now accepts were legally flawed, thanks to the judicial review claim) being reconsidered as quickly as possible. This out of court agreement has saved many months of legal wrangling and reduced legal expenses. And it is important not to forget how many 1950s born women die every day without seeing justice for the DWP’s maladministration.

1. **Will there still be a Court Case?**

The Court has to consider and approve the settlement because the Ombudsman has no power to withdraw a report once it is issued to complainants and MPs. We also believe it is important that the Court approves the ‘Statement of Reasons’ that explains the Court Order, making it absolutely clear what the legal flaws were in the Ombudsman’s conclusions on injustice in his report.

Our lawyers’ arguments showed the Ombudsman that our objections to his Stage 2 report were not defensible in Court and that the draft Stage 3 report had no proper foundation. He therefore chose to settle out of Court and do what we wanted him to do.

1. **What happens now?**

The Court will consider the application to make a quashing Order and the Statement of Reasons, hopefully within a matter of days (though it can take longer). It is unlikely that there will be a hearing and neither WASPI nor the Ombudsman are seeking one. The Ombudsman will then proceed with reconsidering injustice at Stage 2. He must make changes to his report; he cannot simply resubmit the same report now he has accepted it is legally flawed. He will also need to reconsider his draft Stage 3 report.

1. **Will this delay things? When will we get compensation?**

Short of the Ombudsman accepting his Stage 2 report was flawed in response to our lawyers’ letter in February, the settlement is the quickest possible route to a just outcome. We have the result now that we would have waited for the Court to produce in late summer, early autumn or even spring next year, depending on when the judicial review was heard and whether there was an appeal.

Both the Ombudsman and WASPI are keen to resolve the questions of maladministration, injustice and fair remedy to a satisfactory conclusion as soon as possible and this settlement means that the Ombudsman can get straight on with rewriting the report, rather than putting everything on hold while fighting a judicial review.

Ultimately, the Ombudsman will make a final Stage 2 and Stage 3 report (or a combined one) about injustice and remedy. That will be sent to Parliament and the Government will decide how to respond, including on any recommendations for compensation for the maladministration identified in the Stage 1 report. Normally the Government follows the Ombudsman’s recommendations.

1. **If compensation is agreed, will it be automatic, for all 1950s born women, or do you have to apply for it?**

We cannot say for sure yet. WASPI’s position is that compensation ought to be paid out rapidly based on clear principles everyone can understand, either automatically or based on a very straightforward test which gives 1950s born women the benefit of any doubt. The Ombudsman may recommend something along these lines (as he has in the past in some other cases), or he may recommend some forms of compensation are payable depending on women showing they have suffered certain forms of loss (an approach also used in the past).

1. **How much will compensation cost and how can the Government afford it?**

We cannot say what the amount of compensation may be until the Ombudsman has completed his investigation and sometimes a scheme is recommended, rather than a specific amount.

Inevitably there will be a cost to the government of providing adequate compensation for the effects of their maladministration. This is because the DWP didn’t properly inform women from the outset. If they had done this, the cost would have been completely avoided. Questions about the cost to the taxpayer should be directed at the Government, rather than to the women who suffered emotional and financial loss because of their actions.

1. **Does this mean I’ll get my lost years of State Pension?**

WASPI are campaigning for compensation for the lack of notice we received (which the Ombudsman has found to be maladministration by the DWP). On other words, we are seeking compensation for the fact that the DWP didn’t do its job properly. We are arguing for fair, fast and straightforward compensation for the emotional and financial losses – both direct losses and lost opportunities – that women have suffered.

Remember, the injustices were the consequences of the DWP’s maladministration, NOT the Government increasing our State Pension age (which was done by democratic process in Parliament when the law was changed). We are not campaigning for 1950s women to get back the pension they would have received, had their state pension age not been changed. That would be a welcome outcome and we understand why other women are arguing for it, but it is not something the Ombudsman can recommend and we cannot see the present government agreeing to it.

WASPI women should consider what different choices we would have made if we had known earlier that our State Pension age would increase, and what emotional and financial impacts that has had on our lives.

1. **WASPI doesn’t represent all 1950s born women. I want full restitution.**

We understand your position and you are absolutely entitled to campaign for full restitution if you want to.

The settlement of WASPI’s judicial review does not prevent you from doing that in any way, not least because the judicial review is not about whether there should be full restitution or not as a remedy – it is about the Ombudsman’s decision-making on the injustices women have suffered.

WASPI are not campaigning for full restitution. Our reasons of our position are summarised above. We do not claim to represent all 1950s women. We don’t seek to impact on any other campaign which has a different ask, however we will be pressing forward with achieving the best justice we can for as many WASPI and other 1950s born women as possible.

1. **I didn't receive a letter, so what does the settlement mean for me?**

Many women say they didn't receive a letter. However, the Ombudsman concluded in his Stage I report that no mail shot is 100% successful. In his Stage 2 report he took into consideration the dates on which the DWP stated letters were sent to calculate when women should have received one, has there been no maladministration. These can be seen on our website here <https://www.waspi.co.uk/2020/08/09/freedom-of-information-requests/>

In his next Stage 2 report, the Ombudsman will need to work out when women who did not receive a letter should have received one if there had been no maladministration and then consider what that means for direct financial losses and lost opportunities.

1. **I thought the Ombudsman was about to publish his Stage 3 report about compensation. Why did you delay that?**

WASPI had a choice to make. We could either challenge the flawed Stage 2 report as we did (because of the judicial review time limit) or allow it to stand and then await the Stage 3 report which would be based on the legal flaws of the Stage 2 report, in particular the very narrow findings of injustice which did not include any direct financial losses nor lost opportunities for the six ‘sample complainants’.

We decided we had to act and we believe we did the right thing. If the Stage 2 report was left unchallenged, the Stage 3 report could not possibly recommend a just remedy because it would not be responding to the injustice women actually suffered.

1. **If compensation is recommended by the Ombudsman, will it apply to WASPI women who have died before compensation is paid?**

We don’t know at this stage what the terms would be of any redress recommended by the Ombudsman. That would be up to the Government to determine. WASPI’s position is that the estates of 1950s born women who have died but suffered injustice as a result of maladministration should receive the compensation those women would have received – otherwise the Government benefits from the delay in providing a just remedy which would be fundamentally wrong.

1. **What about the costs of the case? If the Judicial Review isn’t going to proceed to a full hearing what happens to all the Crowdjustice money?**

As you will know the Crowdjustice money goes to our lawyers and not to WASPI’s campaign.

Under the settlement, the Ombudsman will pay for some of the costs of the judicial review, but there is likely to be a dispute about how much (which sometimes ends in a process called ‘assessment’, overseen be a judge dealing with costs cases). If there is a shortfall between what the Ombudsman is required to pay and the value of the work our lawyers have done (which is common) we will use some of the CrowdJustice money to close that gap. We believe our lawyers should be paid fairly for their work, which has been exceptional. We could not have secured the settlement without the very best lawyers. Bindmans are one of the top public law lawyers in the country and Blackstone Chambers, where our barristers are based, is one of the most highly regarded.

Our lawyers have also undertaken work that the Ombudsman cannot be asked to pay for, such as liaising with ‘interested parties’ to the claim who are the six sample claimants and the Secretary of State for Work and Pensions. They have advised us on press issues and fundraising through CrowdJustice, and on updates like this one – none of this work will be paid for by the Ombudsman under the settlement.

Last, the fight is not over. There is plenty more work to be done arising from the judicial review. The Ombudsman will produce further draft Stage 2 and Stage 3 reports and ask us to comment on them and review the evidence on which they are based. We will want our lawyers to advise us on all this, drawing on the in-depth knowledge they have about the Ombudsman’s decision making. And most importantly, we will want advice on whether the final Stage 2 and Stage 3 reports are lawful.

We will need to pay our lawyers fairly for all their work on these tasks.

If there is spare money left over when the Ombudsman’s investigation is concluded, and assuming the Stage 2 and Stage 3 reports are lawful, we will decide what to do with the balance according to [CrowdJustice’s unused funds policy](https://support.crowdjustice.com/en/articles/2530689-what-happens-if-there-are-funds-left-over).

1. **Are you keeping the Crowdfunding campaign going?**

Yes we are.

We believe WASPI will need significantly more help from our lawyers in future to fight for the interests of WASPI and other 1950s born women. We do not want to cut any corners in securing the best possible outcome from the Ombudsman process. WASPI is a small membership organisation and we would not be able to cover the cost of the necessary legal work without the crowdfunding campaign.

We are grateful to our lawyers and the staff at CrowdJustice for their support.

As we said in the last update, above all, we are grateful to you. Without your contributions, the judicial review would not have been possible and 1950s born women would have been stuck with a report on the injustice they suffered which the Ombudsman now accepts is "legally flawed”.