



WASPI submission to the meeting of the Work and Pensions Select Committee on 7th May 2024

This submission from Women Against State Pension Inequality (WASPI) responds to the Parliamentary and Health Service Ombudsman (PHSO)'s reports into the communication of women's State Pension age changes, published on 19th July 2021 and 21st March 2024.

1. The Department for Work and Pensions must accept the PHSO's finding of maladministration

The PHSO's first report was published two years and nine months ago following an investigation that took even longer than that.¹ It made detailed findings that the DWP had repeatedly – in their actions, and in their failure to act – been guilty of maladministration. That is, they fell below the standards of good administration which the PHSO polices on Parliament's behalf.

No minister or DWP official has publicly said the PHSO was wrong to make those findings, nor has there been any challenge to them in the courts – an option that was open to the DWP if it had any basis to say the PHSO had acted unfairly, irrationally or otherwise unlawfully. Yet when the second report was published, the Deputy Ombudsman strongly hinted that the DWP was unwilling to accept there was any maladministration, something she condemned as “*unacceptable*”.^{2 3}

If that is the DWP's position today, it is an absolute disgrace and this committee, and then Parliament, should say so in the clearest of terms. It is bad enough that the DWP has prevaricated over acknowledging its maladministration for so long. If it publicly refuses to do so now that the PHSO has given 1950s-born women real hope of some form of resolution, it will be very hard for anyone to see the point of the PHSO. What possible confidence could future complainants have in the PHSO? The DWP has acted and failed to act maladministratively. It needs to get over it and take responsibility.

2. The PHSO's second report means Parliament must now finish the job

From WASPI's perspective, the PHSO's second report is not perfect. We believe the PHSO was very conservative in many of his findings on injustice and his approach to remedies is modest, even taking account of the scale of the problem. For example, we consider that the DWP's letter-writing campaign could and should have started far sooner, that it ought to have acted with a real sense of urgency rather than sending out letters in batches, not on the basis of its capacity but according to the birth dates and birth rates of 1950s-born women. We do not understand the PHSO's narrow approach to direct financial loss either and consider the proposed compensation for the six test case complainants' other losses should have been much higher.

That being said, the PHSO got many basic things right. He was clear there is a real, ongoing, unremedied injustice, suffered not just by the test case complainants but many in similar circumstances. That injustice must be addressed urgently, using a simple system. It would be fundamentally wrong to expect 1950s-born women to spend years attempting to prove to the DWP's satisfaction what is obvious to everyone else: that they have suffered maladministration leading to injustice in the form of “*losing opportunities to make informed decisions about some things and to do some things differently, and diminished their sense of personal autonomy and financial control*” and that “*maladministration in DWP's complaint handling caused complainants unnecessary stress and anxiety and meant an*

¹ [Parliamentary and Health Service Ombudsman \(19 July 2021\) Women's State Pension age: our findings on the Department for Work and Pensions' communication of change HC 444](#)

² [Parliamentary and Health Service Ombudsman \(21 March 2024\) Women's State Pension age: our findings on injustice and associated issues HC 638](#)

³ [Parliamentary and Health Service Ombudsman \(21 March 2024\) DWP failed to adequately communicate changes to Women's State Pension age](#)



opportunity to lessen their distress was lost. For some complainants, it also caused unnecessary worry and confusion” (second report, paras 12 and 18).

This is why the PHSO concluded *“there will likely be a significant number of women born in the 1950s who have also suffered injustice because of maladministration in DWP’s communication about the 1995 Pensions Act”* and said it would have recommended remedies for that injustice had the DWP not been so unwilling to accept its findings.

3. What Parliament should do now

The PHSO was established almost 60 years ago as Parliament’s ‘special investigator’, empowered to root out maladministration and injustice. One of Parliament’s functions is to deal appropriately with Departments that will not heed what the PHSO has to say⁴. It is now for Parliament’s committees and ultimately all 650 Members to carefully consider the reports and to deliver justice as quickly as possible to those affected.

There are three basic steps to be taken:

First, an acknowledgement of fault and apology for all. The DWP and its ministers must stop evading responsibility and make the apology to all affected 1950s-born women who did not receive the information they should have in a timely way.

Secondly, the six test case complaints should be treated with respect and paid at the very least the financial compensation proposed by the PHSO. They have stoically borne the burden of engaging with the PHSO’s investigation for years, including responding to DWP scrutiny and criticism of their every action and decision. There is no reason to wait a moment longer to take the action the PHSO has urged.

Thirdly, a just system needs to be established to begin to address the injustice suffered by other 1950s-born women as a result of DWP maladministration by paying financial compensation. WASPI believes that system needs to be:

- **Speedy** – with 1950s-born women dying every day, there must be no delay. The system must be established and working within weeks, not years, and capable of making rapid, straightforward, comprehensible decisions. The lessons of the Windrush compensation scheme must be learned.
- **Simple** –the simplicity of the system must go hand in hand with its speed. Women should be able to input basic, easily verifiable eligibility information online or using a short form. They should always be given the benefit of any doubt.
- **Sensitive** – we agree with the Ombudsman that any compensation system dependent on detailed enquiries into the circumstances of individual 1950s-born women would delay - and so deny - justice. However, there are two clear quantitative indicators which would assist in ensuring that any compensation scheme is sensitive to differing circumstances. They are, first, how much notice each woman ought to have had of the changes to their State Pension age, *and* secondly, how long they actually had to wait until their new State Pension age.

⁴ *“The Minister whose department had, on investigation, been found by the Commissioner to have been guilty of maladministration must expect to have to justify, in the parliamentary arena, why his department has not put in hand arrangements to provide a remedy in respect of the citizen’s complaint”*: *R (Bradley) v Secretary of State for Work & Pensions* [2008] EWCA Civ 36 at §41.



Accordingly, a 1950s born woman whose letter about changes in State Pension age ought to have reached her sooner, but who was already very close to her new State Pension age by that time, will not have been impacted in the same way as a woman who very little notice of a very long wait. The latter group is far more likely to have made irreversible choices, such as giving up a job, only to learn at the eleventh hour that they would face years without a pension.

Given this, a flat amount of compensation would be arbitrary. But a fair system certainly could be designed to take into account these easily confirmed factors. It would also need to take into account the obvious fact that not all 1950s-born women' circumstances are identical to those of the six test case complaints. The 'Level 4' compensation proposed for them should not be a ceiling for the entire affected group.

In light of the strength of feeling across the House, WASPI believes that all Members should be given the opportunity to vote, in Government time, on any proposals that the Government wishes to bring forward. This will allow all MPs to put forward their views, including any alternative solutions to those put forward by the DWP and this debate should take place before the summer recess.

About WASPI

WASPI calls for a one-off payment from the government as fair and fast compensation for the lack of notice the affected women were given over changes to their State Pension age. A lack of notice which resulted in serious financial losses, and sustained damage to their mental health and wellbeing.

WASPI does *not* campaign for the retirement age for women to return to 60, nor does it take issue with the law change itself. The campaign group was not responsible for the failed legal actions taken against the government, which alleged that changing the State Pension age was in itself discriminatory.

By contrast, the campaign advocates fair, fast and proportionate compensation for those affected by the failure of the DWP to give adequate notice that their State Pension age was changing.

Women Against State Pension Inequality (WASPI)
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