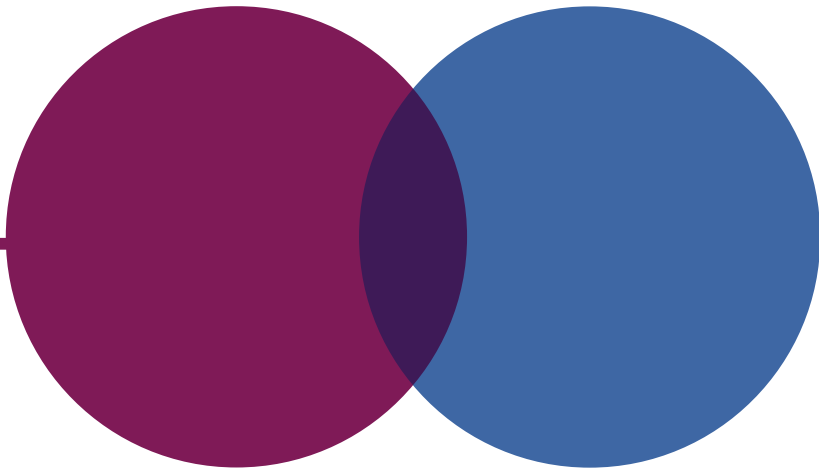




National Audit Office



Investigation into the underpayment of State Pension

Department for Work & Pensions

REPORT

**by the Comptroller
and Auditor General**

**SESSION 2021-22
22 SEPTEMBER 2021
HC 665**

Key facts

134,000

total estimated number of pensioners who have been underpaid State Pension

£1,053m

estimated amount the Department will have to pay to those it has underpaid State Pension whom it can trace

£8,900

estimated average underpayment to those pensioners the Department expects to trace

The numbers provided in this report represent how much the Department for Work & Pensions (the Department) expects to pay in State Pension arrears in total. These numbers are based on estimates produced by the Department for its accounts but also include amounts paid before 1 April 2021. These estimates are highly uncertain and the true number of pensioners affected and value of underpayments will only become clear once the Department has completed its review of all affected cases.

The estimated amount the Department will have to pay excludes those where the Department underpaid the pensioner but it does not believe it will be able to trace or pay the pensioner or their next of kin.

	Estimated number affected	Estimated amount the Department will have to pay to those it has underpaid
Pensioners who should have benefited from their spouse's or civil partner's National Insurance record	53,000	£339 million
Widows and widowers who should have inherited more State Pension entitlement from their deceased partner	44,000	£568 million
Pensioners who should have had an increase in their pension at their 80th birthday	37,000	£146 million

What this investigation is about

1 State Pension is a non-means tested regular benefit paid by the Department for Work & Pensions (the Department) to around 12.4 million people, who meet the entitlement conditions after they reach State Pension age. A person's entitlement to State Pension is based mainly on the number of qualifying years they have 'earned' by making National Insurance contributions (NICs) but, under certain circumstances prior to 2016, those without a full National Insurance record could get top-ups to their State Pension amount.¹ The rules around State Pension changed on 6 April 2016, with the post-2016 entitlement (the new State Pension) calculated based almost exclusively on the claimant's NICs.

2 In early 2020 the number of women contacting the Department to confirm the accuracy of their State Pension increased following media coverage of women being underpaid significant amounts. The Department confirmed that there was a significant issue in August 2020 and now believes around 134,000 pensioners may have been underpaid. In January 2021, it started a Legal Entitlements and Administrative Practices (LEAP) process to review all cases at possible risk of being underpaid. This is the Department's fifth LEAP exercise to systematically review benefit cases for underpayments in the past three years.

3 In its 2020-21 accounts, the Department estimated it would need to pay £1,034 million of arrears in respect of these underpayments.² As part of his report on the accounts, the Comptroller & Auditor General noted that the impact of the underpayment on the affected pensioners is significant, and it is vital the Department learns lessons to avoid systemic underpayments in the future and correct past underpayments. The numbers provided in this report are based on estimates produced by the Department in preparing its accounts. Although these estimates have been subject to our audit, a great deal of uncertainty remains and the true number of pensioners affected and the value of underpayments will only become clear once the Department has completed its review of all possibly affected cases. The estimated amount the Department will have to pay also excludes those where the Department underpaid the pensioner but it does not believe it will be able to trace or pay the pensioner or their next of kin.

¹ Qualifying years can be deemed from a number of other sources too, most common being receipt of certain other types of working-age benefits and Child Benefit.

² This is the value of the liability as at 31 March 2021. The £1,053 million includes arrears paid between 11 January and 31 March 2021.

4 This investigation sets out:

- who is affected and how much has been underpaid (Part One);
- how the errors happened (Part Two);
- how the Department assessed the scale of the problems (Part Three); and
- what the Department is doing to put things right (Part Four).

5 We did not assess other aspects of basic or new State Pension, nor does the report cover wider issues relating to fraud and error, or claimants' entitlements to other benefits, which we cover elsewhere, notably in our annual report on the Department's Annual Report and Accounts.³

³ For instance see Comptroller and Auditor General, *Report on the Department for Work & Pensions, Annual Report & Accounts 2020-21*, HC 422, July 2021, Session 2019-2020, available at: www.nao.org.uk/wp-content/uploads/2021/07/Department-for-Work-and-Pensions-Accounts-2020-21.pdf

Summary

Key findings

Who is affected and how much has been underpaid?

6 The Department for Work & Pensions (the Department) estimates that it underpaid 134,000 pensioners their State Pension over many years. Of these, 94,000 pensioners are estimated to be alive, which represents approximately 0.9% of those currently claiming the pre-2016 basic State Pension. These official errors affect pensioners who first claimed State Pension before April 2016 and who do not have a full National Insurance record or who should have inherited additional entitlement from their deceased partner. The Department says it will not know the demographics of pensioners likely to be affected until it completes its correction exercise, but 90% of those who claim the types of State Pension affected are women (paragraphs 1.10 and 1.11).

7 The Department estimates that in total it needs to pay the affected pensioners £1,053 million in arrears of underpaid State Pension. This excludes over 15,000 pensioners where the Department underpaid the pensioner but it does not believe it will be able to trace or pay the pensioner or their next of kin. On average, the Department estimates that the approximately 118,000 pensioners it can trace could receive around £8,900 by the time the payments are made. So far, the Department has found underpayments of between £0.01 and £128,448.37, with the earliest dating back to 1985 (paragraphs 1.12 and 1.13).

8 These estimates are highly uncertain. The final value of the underpayments and the number of pensioners affected will only become clear once the Department has completed its review of all affected cases (paragraphs 1.18, 1.19 and Figure 4).

9 The estimates exclude those where the pensioner would have received more if they claimed it, but where there was no official error. Prior to 2008, pensioners needed to make a new claim when their spouse reached State Pension age after them if they wanted to rely on their spouse's National Insurance records. The Department has identified a group of pensioners where it believes some would be entitled to a higher basic State Pension if they made such a claim. However, it concluded that it does not need to review these cases as it has not made an error in their payment. The Department will backdate increased payments by 12 months if a new claim is made now (paragraphs 1.16 and 1.17).

How did the errors happen?

10 The Department's administration of State Pension has limited automation and requires the use of multiple systems and interpretation of complex rules.

Where caseworkers identify that future action may be needed on a claim they must manually set a prompt on the IT system. The Department's pension caseworkers must review information across at least three systems, understand which of the State Pension rules apply to each claim and then accurately interpret them in order to assess a pensioner's eligibility. These rules are only fully understood by a small group of specialists (paragraphs 2.2 to 2.6).

11 The underpayments were due to repeated human error over many years, some level of which was almost inevitable given the system's high degree of manual review and complex rules. The Department's own analysis found two main sources of error:

- its caseworkers sometimes failed to manually set (and thus later action) IT system prompts on pensioners' files to review the payments at a later date, such as reaching their 80th birthday or their spouse reaching State Pension age; and
- over time the Department had prioritised the processing of new claims over the processing of prompts and tasks involving the review of existing claims.

In addition, it found caseworkers made errors when they did process prompts because front-line staff found instructions difficult to use and lacked training on complex cases. It also found that its centralisation of pension services to a few national centres led to different teams looking at different elements of each case and no single person taking responsibility for the overall award (paragraphs 2.6 to 2.8).

12 The Department's quality assurance arrangements missed opportunities to detect, correct or prevent the errors. From 2009 onwards, State Pension quality assurance processes focused on checking changes of recent case events, such as a change of address or death of a spouse, rather than the overall accuracy of the payment. The Department's approach to fraud and error focuses on measuring, identifying and tackling the largest sources of fraud and error in its expenditure; but while the State Pension underpayments affected a large number of people, the amount of incorrect expenditure in any one year was so low its sampling-based measurement activity was unable to detect there was a significant problem. It is yet to implement our previous recommendation to measure detected underpayments and does not assess whether individual detected under-or-over payments have a systemic cause that might indicate a wider error (paragraphs 2.9 to 2.12).

How did the Department assess the scale of the problem?

13 The errors were brought to the Department’s attention by individual pensioners and third-party reporting. Most notably Sir Steve Webb, the former Pensions Minister, and Tanya Jefferies of ThisIsMoney.co.uk, provided the Department with example cases of underpayment from January 2020 and published an estimate of the underpayments in May 2020. The Department started exploring the “potential for error” in basic State Pension from April 2020, and confirmed there was a significant issue in August 2020 when it ran a full scan of its system for people who might be affected (paragraphs 3.2 to 3.5).

How is the Department resolving the issue?

14 Prior to January 2021 the Department reviewed the cases of those people who contacted it. It paid out £14 million of arrears to around 2,000 pensioners. It also paid £0.3 million of discretionary interest payments. To be consistent with the other similar exercises the Department has run, it decided to stop paying these discretionary payments from January 2021 (paragraphs 4.2 and 4.3).

15 The Department is now systematically reviewing State Pension cases ‘at risk’ of underpayment to identify who it needs to pay arrears to. It will contact pensioners if it finds they have been underpaid. This process is known as a Legal Entitlements and Administrative Practices (LEAP) exercise. At the time of producing the 2020-21 Annual Report and Accounts, the Department estimated that approximately 400,000 cases will need to be fully reviewed against the information the Department already holds to ensure the pensioner is receiving the correct entitlement. The Department will not have a complete list of cases to review until it completes scans of its systems, expected in November 2021 (paragraph 4.4).

16 The Department is recruiting a total of 544 staff to the LEAP exercise and now expects it to take until the end of 2023, at a staff cost of £24.3 million. The exercise requires experienced state pensions administrators who the Department needs to transfer from other work, and backfill with new recruits. This will inevitably put more pressure on the Department’s normal retirement services, which are already facing backlogs following COVID-19 (paragraphs 4.5 and 4.6).

17 Between 11 January and 5 September 2021 the Department reviewed 72,780 cases and paid out arrears of £60.6 million. This represents 11% of all cases reviewed during this period. It is prioritising pensioners over 80 or those who have been bereaved of their spouse. It is also continuing to respond to pensioners who contact it with a query about their payments. Most of those contacting the Department are not affected by these errors. Dealing with these queries is slowing the Department’s LEAP exercise, but the Department has not issued guidance on its exercise to help those that might be worried they have been underpaid (paragraphs 4.15 to 4.17).

18 It is likely that the Department has made some mistakes when responding to pensioner queries and correcting payments, and there is a risk that it will continue to do so. We found that the same problems caused by highly manual processes and staff's lack of understanding of the complex rules had led to errors in the correction process between January and June 2021. It is also possible, given the complexity of the rules, that some pensioners who have contacted the Department may have been falsely reassured that their payments are correct. The Department has since strengthened its governance and quality assurance over the process, but it is likely that at least some errors remain especially over more complex cases (paragraphs 4.7 to 4.11).

19 The Department may find it particularly difficult to pay the estates of pensioners who have died before their arrears could be paid. Under its data protection policy, the Department does not normally keep records for more than four years after the death of a pensioner or their spouse. As at August 2021 the Department had not approved a formal plan to trace the estates of deceased pensioners (paragraph 4.14).

Recommendations

20 The Department has already started to respond to the recommendations made by the Comptroller and Auditor General in his July 2021 report on the Department's Annual Report and Accounts, that the Department:

- a** ensures clear communications and prompt redress for those affected;
- b** undertakes a full lessons-learned exercise and makes appropriate amendments to processes and controls to ensure such underpayments do not occur in future; and
- c** improves the way it uses information from quality checks and explores how it can better use claimant and pensioner contact to identify systemic issues affecting payment accuracy.

21 Building on each of these previous recommendations, we recommend that the Department:

Improves prompt redress and increases transparency over the LEAP exercise

- d** regularly updates Parliament on the progress of its LEAP exercises, including the scope of the reviews, which cases are and are not being reviewed, and what has been found;
- e** publishes information on the LEAP exercise, including on what guidance is available for pensioners who are concerned they may have been affected by these errors, to help avoid people who are unaffected unnecessarily contacting the Department, and to help those that have been affected to understand the process and implications; and

- f** develops a process by which the beneficiary or executors of estates can find out if the LEAP exercise has identified they are due a payment of arrears, to help tackle cases where the Department cannot trace the next of kin of deceased pensioners affected.

Strengthens its controls and quality assurance processes

- g** strengthens the standard controls over processing State Pension claims. For example, it should consider whether it would be value for money to either make it routine to check an existing partner's claim when the second person in a couple makes their claim, or to regularly scan for and check cases at risk of being underpaid;
- h** improves training on and management of complex State Pension cases. For example, for the duration of the LEAP exercise it should regularly consider what additional training, guidance and case studies of complex cases its State Pension case workers need, in the light of its evolving learning; and
- i** Considers, in the light of its on-going learning from the LEAP exercise, whether more State Pension processes could be automated, cost-effectively, to obtain information from its existing systems and calculate awards more effectively.

Improve its detection of the systemic causes of underpayments across the Department

- j** accelerates its response to our previous recommendation to record and produce management information on detected underpayments; and
- k** routinely reviews detected underpayments to assess whether they have a systemic cause that could give an early warning that other cases are similarly affected.