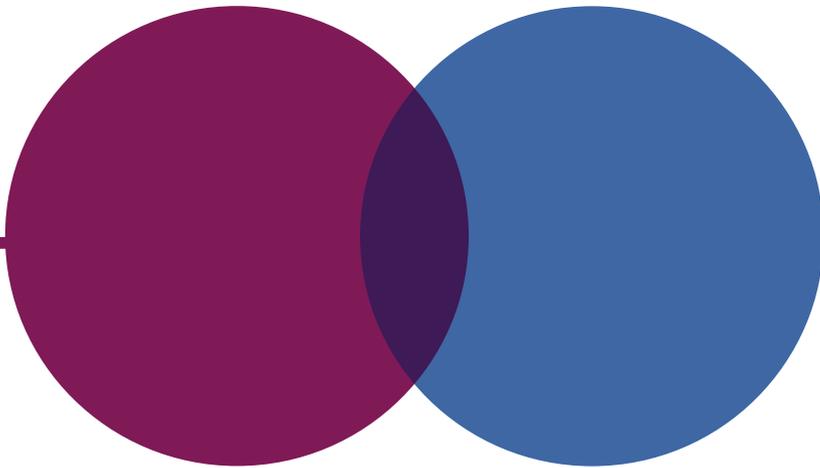




National Audit Office



Investigation into the underpayment of State Pension

Department for Work & Pensions

REPORT

**by the Comptroller
and Auditor General**

**SESSION 2021-22
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HC 665**



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National Audit Office

Investigation into the underpayment of State Pension

Department for Work & Pensions

Report by the Comptroller and Auditor General

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to be printed on 20 September 2021

This report has been prepared under Section 6 of the
National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

Gareth Davies
Comptroller and Auditor General
National Audit Office

16 September 2021

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

The Department for Work & Pensions has underpaid an estimated £1,053 million to pensioners due to human errors it has made dating back many years. This investigation sets out who has been affected, how it happened, how the Department assessed the scale of the problem, and what it is doing about it.

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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.

Part One

Who is affected and how much has been underpaid?

1.1 This part sets out how State Pension works, how much the Department for Work & Pensions (the Department) owes to pensioners and which pensioners are likely to be affected by the errors covered by this report.

1.2 The Department's estimates are highly uncertain and 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.

How does State Pension work?

1.3 State Pension is a regular benefit paid by the Department that most people can claim once they reach State Pension age and meet the entitlement conditions. It is based on an individual's National Insurance contributions (NICs), is taxable, non-means tested and can be made up of several components. An individual's State Pension is not affected by any work they do or by how much they earn once they have reached State Pension age.

1.4 State Pension rules changed on 6 April 2016 when the new State Pension was introduced. The new State Pension reformed and simplified the pensions framework, making the payments almost exclusively based on the individual's NICs. The underpayments covered by this report were to those who receive or received State Pension under the old rules, which applies to anyone born before 6 April 1953 (for women) or 6 April 1951 (for men). As of February 2021, there were a total of 12.4 million individuals receiving a State Pension. Of these, 10.5 million pensioners received basic State Pension under the pre-2016 rules and 1.9 million pensioners received the new State Pension.

1.5 Under the pre-2016 rules, to receive a full basic State Pension individuals must have 'earned' enough qualifying years in which they either worked and paid NICs, or gained National Insurance credits, for example if they received benefits for unemployment, sickness or as a parent or carer. Those without enough qualifying years may be able to increase their basic State Pension depending on their personal circumstances, such as their marital status, age and their place of residence. Some of these increases are only triggered by later life events such as a pensioner reaching 80 years of age, their spouse or partner reaching State Pension age and claiming State Pension, or the death of a spouse or partner. The increases are capped so the pensioner can receive no more than a full basic State Pension and, for certain categories of entitlement, no more than lower limits that are currently set at 60% of a full basic State Pension. This means the pre-2016 rules remain relevant for many changes to existing claims.

1.6 Pensioners with relatively low incomes may also qualify for Pension Credit – a means-tested benefit which provides pensioners with extra support to cover certain living costs. Pensioners who have a severe disability or certain caring responsibilities may be entitled to further Pension Credits.

1.7 An overview of the pre-2016 State Pension categories is provided in **Figure 1** on pages 14 to 16. The basic State Pension categories most relevant to this report are:

- **'Category BL' pensioners:** pensioners who are receiving a low basic State Pension in their own right, but are entitled to increase it using their living spouse or civil partner's contributions once their partner has claimed State Pension. This entitlement is capped at approximately 60% of the basic State Pension rate (currently £82.45 a week);
- **'Category B' or 'widowed pensioners':** widows and widowers who are not entitled to a full basic State Pension based on their own contributions can inherit a basic State Pension from their spouse or civil partner up to the full basic State Pension rate (currently £137.60 a week). These pensioners can also inherit Additional State Pension (see below); and
- **'Category D' pensioners:** men and women previously receiving no or low amounts of basic State Pension, who may be able to increase their State Pension from age 80. This increase is capped at approximately 60% of the basic State Pension rate (currently £82.45 a week).

Figure 1
Simplified rules for the different categories of basic State Pension

The basic State Pension rules apply to men born before 6 April 1951 and women born before 6 April 1953. People born after these dates will receive new State Pension instead

Category	Based on National Insurance Contributions (NICs) of the	Maximum basic rate payable per week (2021-22)	Number of people receiving basic State Pension element (as of February 2021)			Main eligibility requirements ¹
			Men	Women	Total	
Category A (main entitlement based on own contributions)	Individual <input checked="" type="checkbox"/> Spouse or civil partner <input checked="" type="checkbox"/> ²	£137.60	4,055,176	2,962,586	7,017,762	An individual may be eligible for a full Category A basic State Pension if they paid or were credited with sufficient qualifying years of NICs. If they do not have enough qualifying years for a full Category A State Pension, they should get a reduced amount. Individuals with less than the maximum qualifying years may be able to increase their Category A award by paying voluntary NICs. If an individual is divorced but does not qualify for a full Category A State Pension, they may be able to use their former spouse's NICs to increase the amount of basic State Pension.
Category B (inherited top-up with no entitlement to own pension)	<input checked="" type="checkbox"/> ³	£137.60	2,282	546,100	548,377	An individual may be able to use the NICs of their deceased spouse or civil partner to receive a basic State Pension of up to £137.60 a week if they: <ul style="list-style-type: none"> • had reached State Pension age when their partner died; • did not remarry or form a new civil partnership; and • have no Category A pension in their own right.
Category AB (inherited top-up in addition to own pension)	<input checked="" type="checkbox"/>	£137.60	307,371	1,423,453	1,730,823	An individual may be able to use the NICs of their deceased spouse or civil partner to increase their basic State Pension up to a maximum of £137.60 a week if they: <ul style="list-style-type: none"> • had reached State Pension age when their partner died; • did not remarry or form a new civil partnership; and • have a Category A pension in their own right that is below the maximum rate.

Figure 1 *continued*

Simplified rules for the different categories of basic State Pension

Category	Based on National Insurance Contributions (NICs) of the		Maximum basic rate payable per week (2021-22)	Number of people receiving basic State Pension element (as of February 2021)			Main eligibility requirements ¹
	Individual	Spouse or civil partner		Men	Women	Total	
Category BL (spouse top-up) ⁴	✗	✓ ⁵	£82.45	1,473	381,847	383,318	<p>An individual may be entitled to a Category BL State Pension based on their spouse or civil partner's NIC record if they:</p> <ul style="list-style-type: none"> • have reached State Pension age; • are not entitled to a basic State Pension based on their own NIC record; and • are either a married woman or a married man, or a woman married to another woman or a civil partner who reached State Pension age on or after 6 April 2010 with a spouse or civil partner born on or after 6 April 1950. <p>If their spouse or partner does not have a full NIC record, the individual should receive a proportion of it.</p>
Category ABL (spouse top-up)	✓	✓	£82.45	14,028	682,460	696,488	<p>An individual may be entitled to a Category ABL State Pension based on their spouse or civil partner's NIC record if they:</p> <ul style="list-style-type: none"> • have reached State Pension age; • are not entitled to basic State Pension of at least £82.45 a week based on their own NIC record; and • are either a married woman or a married man, or a woman married to another woman or a civil partner who reached State Pension age on or after 6 April 2010 with a spouse or civil partner born on or after 6 April 1950. <p>If their spouse or partner does not have a full NIC record, the individual should receive a proportion of it.</p>

Figure 1 continued
Simplified rules for the different categories of basic State Pension

Category	Based on National Insurance Contributions (NICs) of the		Maximum basic rate payable per week (2021-22)	Number of people receiving basic State Pension element (as of February 2021)			Main eligibility requirements ¹
	Individual	Spouse or civil partner		Men	Women	Total	
Category C	This category of pension was introduced by the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act 1970 to provide non-means-tested pensions to those who had reached pensionable age before the National Insurance scheme started in 1948 and had not been insured under the pre-1948 provisions. There are no recipients of a Category C pension as at September 2021.						
Category D (over-80s)	✗	✗	£82.45	17,222	45,233	62,460	An individual may be eligible for a Category D pension if they: <ul style="list-style-type: none"> are at least 80 years of age and reached State Pension age before 6 April 2016; are not entitled to a Category A or B State Pension, or receive a Category A or B State Pension below the Category D rate; lived in the UK on their 80th birthday, or the date of claim if later; and were resident in England, Scotland or Wales for at least 10 years out of 20 (this does not have to be 10 years in a row). This 20-year period must include the day before they turned 80 or any day after. An individual may still be eligible for a Category D State Pension if they have residency in another European Economic Area country.
Graduated Retirement Benefit	✓	✓	Not applicable	13,339	23,336	36,673	Graduated Retirement Benefit is an additional benefit to those that paid "graduated contributions" in addition to their NICs between 1961 and 1975.
Total				4,410,891	6,065,015	10,475,901	

Notes

- For more information about Additional State Pension see: www.gov.uk/additional-state-pension.
- Former spouse or civil partner only.
- Late spouse or civil partner only.
- Sometimes referred to as "lower rate Category B State Pension".
- Current spouse or civil partner only.

Source: National Audit Office analysis of eligibility criteria based on the Department for Work & Pensions information

1.8 People could previously also pay additional contributions towards an Additional State Pension (such as the State Earnings Related Pension Scheme). A pensioner may inherit at least 50% of the Additional State Pension from their deceased spouse or civil partner on top of their basic State Pension, as long as they do not remarry or form another civil partnership before they reach State Pension age. There is a limit on the amount of additional State Pension an individual may have on their own NICs and what they may inherit. In 2021-22, this limit is £180.31 per week.⁴

1.9 In addition to a pensioner's age and marital status at the time of their claim, a number of other factors affect entitlement to State Pension including the option to defer State Pension, whether a pensioner is divorced or re-married, and their residency status. These rules are set out in multiple pieces of legislation (Part Two). Eligibility information for pensioners is available on GOV.UK. The Department also produces a Single Source of Guidance to provide staff with information on how to process State Pension claims.

Who is likely to have been underpaid?

1.10 The Department estimates that it underpaid around 134,000 pensioners basic State Pension as a result of its official error (see **Figure 2**). Of these, at least 94,000 pensioners are estimated to be alive, which represents approximately 0.9% of those currently claiming the pre-2016 basic State Pension.

Figure 2

Number of pensioners affected and value of State Pension underpayments as estimated by the Department for Work & Pensions (the Department)

The Department estimates that each pensioner traced could receive around £8,900 on average by the time the payments are made

Pensioners affected	Estimated number of pensioners affected	Estimated number of traceable pensioners	Estimated amount the Department will have to pay to those it has underpaid	Estimated average underpayment
			(£m)	(£)
Category BL (spouse top-up)	53,000	51,000	339	6,700
Widowed pensioners	44,000	37,000	568	15,500
Category D ('over-80s')	37,000	31,000	146	4,800
Total	134,000	118,000	1,053	8,900

Notes

- 1 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.
- 2 Totals may not sum due to rounding.
- 3 The estimated number of pensioners affected has been rounded to the nearest 1,000. Estimated value of underpayments has been rounded to the nearest £1 million. Average value of underpayment has been rounded to the nearest £100.

Source: National Audit Office analysis of the Department for Work & Pensions information

⁴ For more information about Additional State Pension see: www.gov.uk/additional-state-pension

1.11 The Department has not assessed the demographics of pensioners likely to be affected by the underpayment. It told us that information on who had been underpaid will only be available once the State Pension correction exercise is complete. Most of those affected are likely to be women as women represent the vast majority (90%) of pensioners claiming categories B, AB, ABL, BL and D. These individuals do not have a full National Insurance record in their own right and are either able to claim an element of State Pension based on their partner's National Insurance record (Categories AB, B, ABL and BL) or have their pension increased to the Category D minimum on their 80th birthday (see Figure 1).

How much does the Department owe in total?

1.12 The Department estimates that in total it needs to pay affected pensioners £1,053 million in arrears of underpaid State Pension as a result of its failure to pay them their full legal entitlement over many years.⁵ 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 (Figure 2).

How much are they each likely to receive?

1.13 The Department must legally pay arrears to those it underpaid their statutory entitlement because of official error. The amount payable to each individual will vary widely depending on each individual's specific entitlements and how much they have been underpaid. On average, the Department estimates that each of the approximately 118,000 pensioners it can trace could receive an average £8,900 by the time the payments are made. **Figure 3** provides examples of individual underpayments. So far, the Department has found underpayments of between £0.01 and £128,448.37, with the earliest dating back to 1985.

1.14 Payments of arrears are net of overpayments of Pension Credit, which people may have been overpaid if they were underpaid their State Pension and did not have another form of significant income. The Department's estimates of underpayments in this report are net of any overpayments.

⁵ In its 2020-21 accounts, the Department estimated that it owes pensioners £1,034 million of arrears as at 31 March 2021. The £1,053 million includes those it paid between 11 January and 31 March 2021.

Figure 3

Examples of State Pension underpayments

Reasons for State Pension underpayments can reflect a variety of different circumstances

Case study 1 – Category BL

- Dory was not eligible for a pension in her own right based on her number of years of National Insurance Contributions (NICs) but started to receive a Category BL pension when her husband retired in 2007. The Department for Work & Pensions (the Department) assessed Dory's husband as being entitled to 96% of a Category A pension based on his NICs record, and awarded Dory 96% of a full category BL.
- HM Revenue & Customs subsequently corrected Dory's husband's NICs record to a 100% entitlement and the Department increased his pension entitlement accordingly. However Dory's category BL pension was not revised.
- Following the review of the award by the Department for Work & Pensions in 2021, Dory received arrears of £1,200 for pension underpaid between 2007–2021.

Case study 2 – widowed pensioners

- Samantha's husband died in 2010. Samantha was receiving 50% of a Category A pension but did not know that she could claim a proportion of her husband's pension after his death. Although the Department received a notification of Samantha's husband's death, her pensions entitlement was not automatically revised.
- Following the Department's review of Samantha's Pension award in 2021, the Department paid Samantha arrears of £17,452. The full entitlement for the period between 2010 – 2021 was £35,418, but £17,966 was offset against the overpayment of Pension Credit she received during these years. Samantha's future Pension was uplifted and her Pension Credit reduced.

Case study 3 – over-80s

- Jack turned 80 in 2015 and should have been awarded a Category D pension at that time. He passed away in 2019. Jack was receiving 37% of a Category A pension based on his NICs record (equivalent to £50.91 per week in 2021-22) and had no other pensions entitlements. If Category D had been accurately awarded, Jack's State Pension would have been topped up to £82.45 per week (in 2021-22).
- Following the review of the award by the Department in 2021, it calculated that Jack was underpaid a total of £6,832 between 2015–2019, which it paid to his wife.

Notes

- 1 The arrears numbers in these case studies are provided for illustrative purposes but have been approximated to real cases. Names have been changed to protect personal information.
- 2 An individual's pensions entitlement can be affected by a variety of factors, such as the details of their additional State Pension or whether they are in receipt of Pensions Credit.

Source: National Audit Office analysis of the Department for Work & Pension information

1.15 The payment of a lump sum of arrears may affect the pensioner's current or future entitlement to other benefits such as Pension Credit, housing benefit, or social care provided by local authorities. The Department told us that it remains the pensioner's responsibility to advise the relevant authority should their circumstances and eligibility for benefits change. HM Revenue & Customs told us income tax is calculated on arrears of state pension for the tax year in which the pensioner was entitled to receive it, and not in the year in which a lump sum is paid. Where arrears of state pension are paid, income tax will only be due on any income that exceeds the personal allowance for the respective tax year.

Who is not included in the estimates of underpayments?

1.16 The estimates exclude those where the pensioner would receive more if they claimed it, but where there was no official error because the individual needed to make a claim for the higher amount. There is no legal obligation on the Department to either seek these pensioners or pay them arrears. The Department will backdate any increased payments by 12 months from the date when a new claim is made. People who may have underclaimed their State Pension include:

- potential Category BL married women, whose spouse or civil partner became entitled to State Pension prior to 17 March 2008. These pensioners are required to make a claim for any top-up payment based on their partner's National Insurance record. By contrast, those whose spouse or civil partner became entitled to State Pension after 17 March 2008 should automatically be considered for a Category BL basic State Pension;
- divorced pensioners who have not informed the Department of the divorce and whose pension could be increased using their ex-spouse or ex-partner's National Insurance record. There is information included within annual uprating letters and on GOV.UK to remind people to do this; and
- individuals more than 80 years old who are not already in receipt of basic State Pension, or who currently live abroad and have not yet claimed Category D. In both cases the individual must submit a claim to the Department and satisfy residence conditions before they are eligible for payment.

1.17 The complexity of the State Pension policy and legal framework means that in some non-typical cases it can be difficult to establish if the Department is legally required to compensate for an underpayment. The Department is reviewing such situations on a case-by-case basis and provides policy and legal guidance to its caseworkers as and when needed.

How much uncertainty is there in these numbers?

1.18 The estimates in Figure 2 (page 16) are extrapolated from the review of the cases carried out so far and analysis of administrative data, and are therefore subject to a high level of uncertainty. They will continue to be revised as the Department obtains and analyses further information from customer records. The final value of the underpayments will only become clear once the Department has completed its review of all affected cases.

1.19 The main uncertainties in the estimates are set out in **Figure 4** on pages 22 and 23. The greatest uncertainty relates to the estimate of underpaid Category BL cases where the Department has little or no information about the pensioner's spouse or civil partner. It has identified more than 153,000 cases where it needs to trace the pensioner's partner to determine the pensioner's eligibility. The Department assumes that for the majority of these cases, the pensioners will be ineligible for Category BL top-ups because their spouse does not pay National Insurance in the UK.

Figure 4
Key sensitivities of the State Pension underpayments liability as at 31 March 2021

The estimated total underpayments are subject to a great deal of uncertainty. The estimated cost of correcting underpayments features seven key assumptions. This table sets out how changing each of these assumptions in isolation could impact the estimate as at 31 March 2021

Sensitivity	Description	Estimate of number of people affected			Estimate of the underpayment		
		Estimated minimum	Central estimate	Estimated maximum	Estimated minimum (£m)	Central estimate (£m)	Estimated maximum (£m)
Category BL spouse records	153,000 pensioner records do not contain spouse details meaning it is not possible in these cases to accurately confirm whether an underpayment has occurred. Until tracing is completed, this represents a significant uncertainty.	0	5,000	153,000	0	30	1,140
Pension Credit offset	The central estimate includes an assumption about how much Pension Credit has been overpaid to pensioners as a result of the underpayment of State Pension. This needs to be netted off from any payment of arrears.	132,000	132,000	132,000	660	700	1,090
Widowed pensioners (live cases)	The range here reflects the uncertainty around the number of widows and widowers underpaid until a more precise system scan is undertaken.	24,000	26,000	28,000	390	420	460
Category D (live cases)	Current system scan data does not enable a precise number of pensioners affected in this category, particularly those overseas, to be calculated. The Department for Work & Pensions (the Department) used available data to estimate lower and upper bounds.	13,000	22,000	31,000	60	110	180
Deceased cases (widowed pensioners and Category D)	The Department normally only retains records for four years after a pensioner's death. The system scans used for widowed pensioners and Category D only contain the records of live pensioners. The Department estimated the volume of deceased pensioners based on the level of live cases and expected mortality rates derived from caseload movements.	7,000	18,000	23,000	60	170	210
Traceability of next of kin	Where an underpaid pensioner is deceased, the Department will seek to pay arrears to the deceased's next of kin. It is not always possible to locate a next of kin, and the Department has estimated the potential range of deceased cases where it expects to be able to trace them.	9,000	24,000	37,000	80	210	330
Duration of Legal Entitlements and Administrative Practices (LEAP) exercise	The Department has committed to complete correction activity by the end of 2023. Several factors could affect this plan, such as recruitment, resourcing and staff productivity. Should the timetable be accelerated or delayed, the value of arrears owed by the Department would increase or decrease accordingly.	132,000	132,000	132,000	1,020	1,030	1,050

Figure 4 *continued*

Key sensitivities of the State Pension underpayments liability as at 31 March 2021

Notes

- 1 'Central estimate' represents how this element has been treated in the provision recognised in the Department's Annual Report and Accounts as at 31 March 2021 and is used as a baseline for other scenarios.
- 2 The Department believes the upper end of this estimate has minimal likelihood of occurrence.

Source: Department for Work & Pensions, *Annual Report and Accounts 2020-21*

Part Two

How did the errors happen?

2.1 This part sets out how the Department for Work & Pensions (the Department) administers State Pension, what went wrong and why the underpayment errors went undetected for so long. It also describes how the Department found out about the errors and the action it took to understand the extent of the issue.

How does the Department administer State Pension?

2.2 State Pension is administered in accordance with legislation that evolved over several decades. Since 1989, there have been 14 new Acts of Parliament and multiple sets of Regulations amending the eligibility criteria for State Pension, as well as statutory annual uplifts to the category values (**Figure 5**). The Department's pension caseworkers must understand which of the rules apply to each claim over time and then accurately interpret them in order to assess a pensioner's eligibility.

2.3 The Department's administration of State Pension has limited automation and requires the use of multiple systems. When working on a claim, staff must access information from different IT systems and manually copy across information from one system to another to calculate the award. Different parts of the award are often assessed by different caseworkers in different teams and each caseworker needs to use information from at least three of four separate IT systems to calculate a claim:

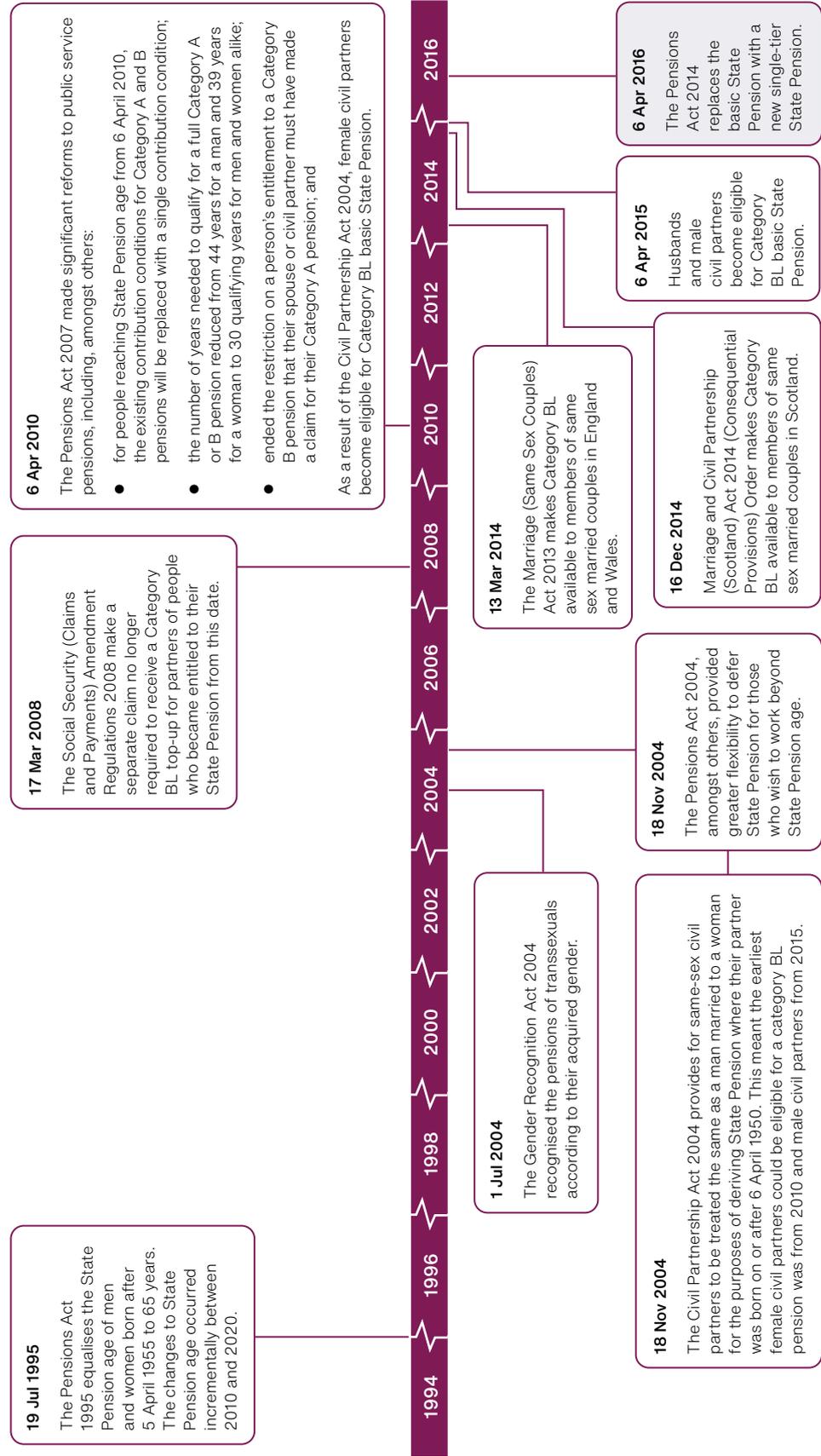
- the National Insurance Record System owned by HM Revenue & Customs (HMRC), which holds the history of National Insurance contributions (NICs);
- the Department's Pension Service Computer System, which holds the award and calculates payments. It was launched in 1988 and is still used to manage the live State Pension caseload despite being a 'legacy system';⁶
- the Customer Account Management system (CAM) which holds the claimant's case record history and personal details. This was launched in 2006 to support record management and history of the State Pension; and
- The CAMlite system, also launched in 2006, for customers who live or have lived outside the UK.

Caseworkers with access to CAM do not have access to CAMlite and vice versa, so the international and UK teams must work together to understand a pensioner's full claim history.

⁶ A legacy system is defined as software or hardware that is no longer cost-effective or is now considered to be above the acceptable risk threshold: www.gov.uk/guidance/managing-legacy-technology

Figure 5
Timeline of the key legislative changes to basic State Pension between 1995 and 2016, at effective date

The legal framework for basic State Pension changed several times before being replaced by the new State Pension on 6 April 2016



Source: National Audit Office analysis of administrative and legislative information

2.4 The Department normally only reviews and revises a State Pension award either as a result of new information or in response to a timed notification left on the system by previous caseworkers. It is normally the pensioner's obligation to report any changes in their circumstances that may affect their pension award, for example if they divorce or remarry. In other cases, new information is provided to the Department by another government organisation such as HMRC or the Tell Us Once service for a notification of a death. Where caseworkers identify that future action may be needed on a claim they must manually set a timed prompt on the IT system. These prompts are often used to remind caseworkers to review the entitlement of:

- pensioners when their younger spouse or civil partner reaches State Pension age (**Category BL**); or
- pensioners who are approaching 80 years old and are claiming less than the lower limit (currently 60% of the full rate basic State Pension) (**Category D**).

2.5 Every year the Department must contact pensioners to notify them of any annual uprating to their State Pension amount. It also contacts pensioners when it makes a change to the award.

How were errors made?

2.6 The underpayments were official error, due to repeated human error over many years.⁷ The errors happened because the State Pension rules are complex, the systems are outdated and unautomated and the administration requires a high degree of manual review and understanding by case workers. The State Pension rules are complex and are only fully understood by a small group of specialists. This complexity and lack of automation makes some level of error in the processing of State Pension almost inevitable.

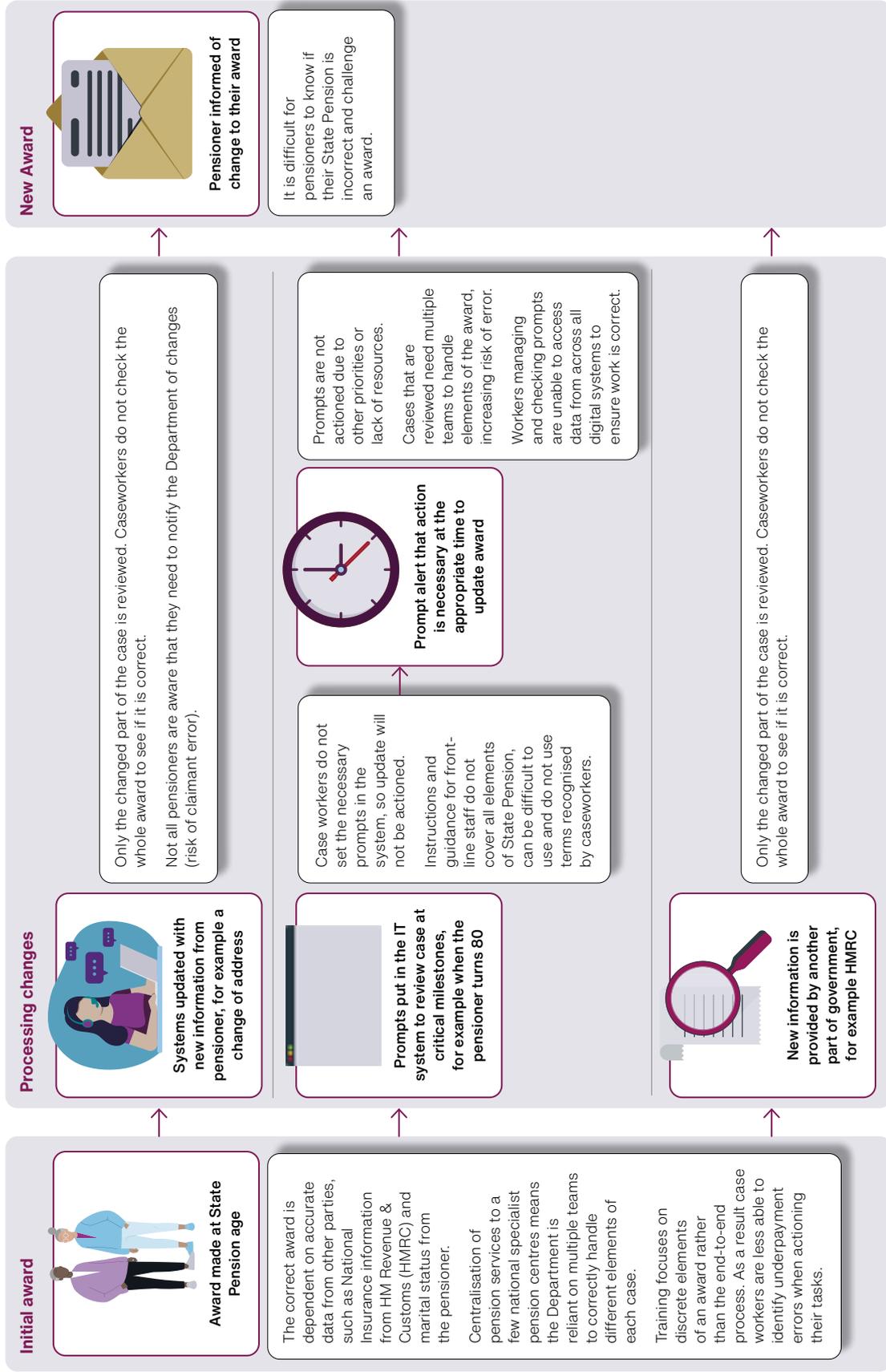
2.7 In June 2021 the Department completed a root cause analysis to determine how the historic underpayments of basic State Pension happened (**Figure 6**). The Department's analysis found:

- its caseworkers sometimes failed to manually set IT system prompts to review the case at a later date, such as reaching their 80th birthday or their spouse reaching State Pension age;
- its caseworkers sometimes failed to action manually set prompts or notifications, such as of a death; and
- the Department had failed over a long period of time to recognise the importance of processing prompts once set because it often prioritised the processing of new claims over the review of existing claims.

⁷ Official errors are defined as where a benefit has been paid incorrectly due to a failure to act, a delay or a mistaken assessment by the Department, a Local Authority or HM Revenue & Customs, to which no one outside of that department has materially contributed, regardless of whether the business unit has processed the information.

Figure 6 Issues identified by the root cause analysis completed by the Department for Work & Pensions (the Department) in June 2021

Analysis by the Department for Work & Pensions (the Department) identified problems at each stage of the basic State Pension process



○ Process ○ Issues identified by the Department's root cause analysis
Source: National Audit Office analysis of Department for Work & Pensions information

2.8 The Department's analysis also found that once set, prompts were actioned incorrectly due to instructions that front-line staff found difficult to use and a lack of training on complex cases. It also found that its centralisation of pension services to a few national specialist pension centres led to different teams looking at different elements of each case and no single person taking responsibility for the overall award.

Why did the Department not notice for so long?

2.9 The Department's quality assurance arrangements missed opportunities to detect, correct or prevent the errors. The Department's root cause analysis identified gaps in its three-tier quality assurance framework that meant its internal assurance processes did not identify the errors (**Figure 7**).

2.10 While the State Pension underpayments affected a large number of people, the amount of incorrect expenditure in any one year was so low the Department's sampling-based measurement activity was unable to detect there was a significant issue. The quality of a caseworker's work is assessed by team leaders (Tier 1) and by a central team (Tier 2). The rate of official error is assessed as part of estimating fraud and error across all benefits (Tier 3). However:

- since 2009, Tier 1 and Tier 2 processes focus on checking changes to case details, such as a change of address or the death of a spouse, rather than the overall accuracy of the payments; and
- the small sample sizes of Tier 2 and Tier 3 relative to the basic State Pension caseload made it difficult to identify the errors. For Tier 3, errors such as these are low as a percentage of annual spend (an estimated 0.4% overpayments and underpayments of State Pension expenditure in 2020/21), but have built up over time.

2.11 In addition, caseworkers we spoke to for this investigation told us they feel the Department has too few staff trained on State Pension processes to manage the caseload and perform the expected quality assurance procedures. The Department told us that it has more than 1.4 million outstanding open tasks on the CAM system going back to 2005, not all of them impacting on a customer's award. The Department is actioning these tasks in time order.

Figure 7

Quality Assurance over Basic State Pension

Quality assurance follows a three-tier process that was implemented in 2014

Quality assurance tier	Purpose	Volume of cases reviewed	Limitations
Tier 1	<p>Tier 1 involves:</p> <ul style="list-style-type: none"> an assessment of the pensioner customer experience by team leaders; and more detailed technical assurance of the handling of the case by Tier 1 assurance teams. <p>Tier 1 assurance teams target reviews using the outcomes of Tier 2 assurance reporting to focus on areas of risk.</p>	Currently review 0.2% of cases processed each month.	The role of team leaders has changed, and they lack the technical expertise to check accuracy of awards.
Tier 2	<p>National, independent assurance conducted by the Counter-Fraud and Compliance teams that assesses the accuracy of specific recent change events, such as a change of address or death of a spouse.</p> <p>Among other things, it provides assurance that the appropriate prompts have been set in the system to trigger a review of a Category BL case. No similar assurance is in place for widowed pensioners or Category D cases.</p>	<p>46 cases of changes of circumstances, per month</p> <p>176 new claims cases, per month.</p>	The chances of the Category BL error being identified within the sample considered are extremely small.
Tier 3	Provides independent assurance conducted by performance measurement, data and analytics service.	1,500 per year	<p>As with Tier 2 this is a small number of cases to check against the caseload of basic State Pension customers.</p> <p>Whilst the underpayment errors considered as part of this exercise have been identified within the Tier 3 sampling, no report has identified the potential for widespread error or any systemic cause of error.</p>

Note

- 1 Tier 1 and 2 assurance activity was paused as part of the Department for Work & Pensions' emergency response to COVID-19. Tier 2 assurance restarted in July 2020. Tier 1 restarted in May 2021.

Source: National Audit Office review of Department for Work & Pensions information

2.12 This gap in its quality assurance is partly due to the Department's historic approach to fraud and error. The Department's fraud and error work focuses on measuring, identifying and tackling the largest sources of fraud and error across benefit expenditure so that it can develop methods to address them. While this is in line with our understanding of good practice, by itself it is susceptible to systemic causes of error that is small in terms of annual monetary value but large in impact on individuals.⁸ This is in part because the Department:

- does not record how many people contact the Department to complain of underpayments or how many arrears payments it makes. Although some pensioners complained about these types of error, the Department could not tell us how many;
- is yet to implement our previous recommendation that it measures detected underpayments;⁹ and
- does not assess whether individual detected underpayments or overpayments have a systemic cause that might indicate a wider error. Thus although individual State Pension underpayments were identified by Tier 3 assurance sampling, the Department did not assess whether they had a systemic cause.

8 National Audit Office, February 2021, "Good practice guidance: Fraud and Error", available at: www.nao.org.uk/report/good-practice-guidance-fraud-and-error/

9 Comptroller and Auditor General, *Report on the Department for Work & Pensions*, Annual Report & Accounts 2020-21, HC 422, July 2021, (page 32) available at: www.nao.org.uk/wp-content/uploads/2021/07/Department-for-Work-and-Pensions-Accounts-2020-21.pdf

Part Three

How did the Department assess the scale of the problem?

3.1 This part of the report sets out how the Department for Work & Pensions (the Department) became aware of the issue and how it assessed the scale of the problem.

How did the Department identify the problem?

3.2 The problem of underpayments of State Pension was brought to the Department's attention through complaints by individual pensioners and third-party reporting in early 2020.

3.3 In January 2020 Sir Steve Webb, the former Pensions Minister working in partnership with Tanya Jefferies of ThisIsMoney.co.uk, started to refer a number of cases to the Department of women who had been underpaid. In February the Department responded to Sir Steve Webb's request for information about the number of women paid less than a full basic State Pension entitlement. On 26 May 2020 Sir Steve Webb published an estimate of the level of underpayments using the information obtained from the Department combined with public information from the Family Resource Survey that at least 220,000 women had been underpaid (131,000 married women in Category BL; 56,000 widows; and 35,000 divorcees.¹⁰ The report also identified a further problem with those aged over 80, which it said could add further to the total.)¹¹ The report included categories of pensioners that the Department does not view as underpaid as a result of its official error (for example, it included pensioners whose partners had claimed State Pension before 17 March 2008 – see paragraph 1.16), but the report correctly identified that there were thousands of pensioners who had been underpaid.

¹⁰ The Family Resource Survey is a continuous household survey which collects information on a representative sample of private households in the UK (available at: www.gov.uk/government/collections/family-resources-survey--2) Sir Steve Webb used it to make assumptions about (i) husband State Pension levels (ii) the proportion of women divorced, married and widowed; and (iii) the number of individuals living abroad.

¹¹ Lane Clark & Peacock LLP, *Are thousands of older women being short-changed on their state pension?*, May 2020.

3.4 The subsequent media reporting of the issue and cases of underpayment led to an increase in women contacting the Department to see if their basic State Pension was correct. Sir Steve Webb and Tanya Jefferies of ThisIsMoney.co.uk continued to send the Department case studies of pensioners who had contacted them about errors in their payments. In August 2020 Sir Steve Webb reported that he had been made aware of 46 cases of Category BL arrears, amounting to £439,000 with an average payment of approximately £10,000, and of some cases of widows receiving arrears in excess of £100,000. These reports led to calls within Parliament for a full government investigation.

How did the Department estimate the scale of the problem?

3.5 The Department told us it started exploring the “potential for error” in basic State Pension from April 2020. In contrast to the estimate published by Sir Steve Webb and Tanya Jefferies of ThisIsMoney.co.uk, from May until shortly after the time the Department produced its 2019-20 accounts (June 2020) the Department thought that the error would not affect many people and was not significant enough to need reporting. However, by August 2020 after running a scan of its IT systems for people who could be affected, officials realised that the error was likely to have affected many more people. The Department had to design and develop new system scans to be able to pick up records with defined parameters or characteristics (such as those who are married or a particular age) to estimate how many pensioners have been affected. Over the period September 2020 to July 2021 the Department’s estimates varied significantly as it continued to analyse and refined these scans.

3.6 By January 2021 the Department had used these scans and management information to estimate around 400,000 cases needed to be reviewed. This was made up of:

- 273,000 Category BL cases; and
- about 130,000 widows and Category D cases, although the Department will not be able to confirm actual numbers until it has a complete list of these cases when it finalises its scans in November 2021.

3.7 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.

3.8 More details of the system scans showing how the Department identified State Pension cases at risk of underpayment is set out in Appendix Two, and details of how these were produced are set out below.

Identifying Category BL cases at risk of underpayment

3.9 The Department initially focused on identifying underpayments to Category BL pensioners. On 4 May 2020 it commissioned a scan of the Pension Service Computer System (PSCS). This scan completed in mid-July 2020 and captured all married pensioners who currently receive less than the full category Category BL rate. The Department refined the scan results in August 2020 to remove those cases that were out of scope or where a claim for Category BL was required because the husband reached State Pension age before March 2008. This left approximately 273,000 Category BL cases for the Department to manually review and confirmed that there was a significant issue.

3.10 As the scan parameters are wide, not every case reviewed will expose an underpayment. The Department estimates that in around 52%, or 142,000, of the cases to review it will not be able to trace the pensioner's spouse, generally because they do not pay National Insurance in the UK. Of the remaining 131,000 Category BL cases identified as 'at risk', the Department estimates only 53,000 pensioners will be entitled to a lump sum of Category BL arrears.

Identifying widows and Category D cases at risk of underpayment

3.11 The Department was initially unable to run further PSCS scans to identify all cases of widows and widowers who might not have received their inherited rights and of pensioners who may not have received their uplift of State Pension at age 80 (Category D pensioners) because of planned IT system upgrades. The estimates for these categories as at 31 March 2021 were therefore based on assumptions and scans of the Department's General Matching Service (GMS), which it normally uses to compare different government data to identify fraud and error. The main limitation of the GMS scan is that it could only include live cases and could not identify deceased pensioners who may have been underpaid.

3.12 The Department completed a full PSCS scan for Category D pensioners in August 2021. It is currently analysing the scan output to determine initial estimates, which it expects to complete by autumn 2021. The Department will complete a PSCS scan for widowed pensioners in November 2021.

The reduction in the Department's public estimate of the number of people affected

3.13 From January 2021 the Department began to sample the list of Category BL pensioners who might be affected by the error as part of its correction exercise. On 3 March 2021, the Office for Budget Responsibility (OBR) reported that the Department would have to pay £2.5 billion of arrears. This estimate was given to the OBR by the Department based on its initial sampling and assumed that the total affected caseload across all three groups would be almost 200,000 over the period to the end of 2025-26. On 4 March 2021 the Department made a statement that its current estimate of the total costs of repaying the arrears was £2.7 billion, which included payment of arrears beyond 2025-26. In a supplementary release in April 2021, OBR stated that its estimate was "highly uncertain" and was not "known with great precision".

3.14 In June 2021 the Department identified that a significant number of the cases it had identified as being 'at risk' of being underpaid in its July 2020 scan, and that it had been working through since January 2021, related to men whose spouse was born before 6 April 1950. This meant these pensioners were ineligible for Category BL increases to their basic State Pension. Our 2020-21 financial audit of the Department's Annual Report and Accounts identified further issues with these estimates. For example, the Department's estimated value of Category D underpayments reduced after we challenged the Department's assumptions around the entitlement of pensioners resident in the EU. Correcting all these errors and updating its estimates based on its early working of cases led the Department to reduce its estimate of the value of its liability by £1.6 billion to the £1,034 million set out in its 2020-21 Annual Report and Accounts published in July 2021.

Part Four

How is the Department resolving the issue?

4.1 In this part we set out the approach by the Department for Work & Pensions (the Department) to rectify the issue of underpayments. It describes what the Department is doing to correct underpayments, how it is prioritising cases and the value of payments made to date.

What is the Department doing to correct the underpayments?

Pre-January 2021

4.2 In the months before January 2021 the Department reviewed cases of pensioners who contacted it directly. The Department told us that it paid out £14 million to 2,000 pensioners before 11 January 2021.

4.3 During this period, the Department generally made special payments of interest on top of any arrears due to pensioners. In the months before January 2021, the Department paid out £306,165 in special payments. Once the formal correction exercise began in January 2021, ministers decided to stop routinely making interest payments to be consistent with the other similar exercises the Department has run.

From January 2021

4.4 In January 2021, the Department started the process of systematically reviewing all cases 'at risk' of underpayment in what is known as a Legal Entitlements and Administrative Practices (LEAP) exercise (**Figure 8** overleaf). As part of the LEAP exercise the Department will manually review every 'at risk' Category BL, Category D and widowed pensioner cases identified as at risk of having been underpaid to determine whether an underpayment has occurred and the value of any arrears. At the time of producing the 2020-21 Annual Report and Accounts, it estimated that approximately 400,000 cases would need to be fully reviewed against the information already held to ensure the pensioner is receiving the correct entitlement (see paragraph 3.6). The Department will contact pensioners if it finds they have been underpaid.

Figure 8

Legal Entitlements and Administrative Practices (LEAP) exercise

A LEAP is a systematic review of cases at risk of being underpaid to help the Department ensure it has met its legal responsibilities

LEAP is a report by civil service officials in 1979 which provides a framework for considering how to deal with cases where there has been a failure by a government department to meet legal entitlements.

- The Department for Work & Pensions (the Department) uses LEAP exercises to make key decisions in situations where a mistake has been made that affects a large volume of cases.
- The exercise weighs the individual impact on each claimant against the overall impact on the Department, and tries to establish a proportionate response.
- The LEAP guidelines do not have any legal standing, but adherence to it can be used in future litigation to show that the Department has taken a rational approach to the decision.

Source: Civil Service Department, Legal Entitlements and Administrative Practices: A report by officials, December 1979

The cost of staffing the LEAP exercise

4.5 The Department currently has just over 200 people conducting the LEAP exercise. The LEAP exercise was originally expected to take more than six years to complete. Following a ministerial decision in March 2021 to recruit additional staff, the Department revised the completion date to the end of 2023. The Department expects to increase the number of full-time staff working on the LEAP exercise to 544 from 184 in March 2021 with a further 360 by the end of January 2022. In total the correction exercise is expected to cost £24.3 million in staff costs.

4.6 The Department intends to redeploy its more experienced caseworkers from its Retirement Services division to the LEAP exercise, and backfill their posts from elsewhere in the Department or through new joiners. This will place additional strain on its normal State Pension operations, which already have backlogs as a result of COVID-19 and the prioritisation of new Universal Credit claims during the early part of the pandemic. The number of outstanding new State Pension claims rose to around 80,000 by July 2021, compared to under 40,000 the Department viewed as typical before the COVID-19 pandemic.

Are there risks to the quality of the correction exercise?

4.7 The issues with staff training, instructions and quality review that led to the underpayments have also affected the LEAP exercise. Our financial audit of the Department's 2020-21 accounts identified nearly 200 of 1,500 cases where the LEAP reviewers had incorrectly assessed a pensioner's entitlement to Category BL arrears.

4.8 In April 2021, the Department commissioned the Government Internal Audit Agency (GIAA) to investigate the quality assurance controls for the LEAP exercise. The GIAA identified significant weaknesses in these controls. The report concluded there was “limited assurance”, and recommended that the Department “develop a more holistic quality strategy for the LEAP exercise, to provide a greater level of assurance that cases have been correctly reviewed, and underpayments corrected accurately”.

4.9 The Department redesigned its LEAP exercise quality strategy in March 2021, which it piloted before its implementation in August 2021. This is in addition to following the Department’s standard quality assurance processes. Although the Department has conducted some ad hoc Tier 1 quality assurance over arrears of high value, it only began Tier 2 assurance testing in August 2021, with the intention of reviewing 10 cases a month. In contrast, it performed Tier 1 checks on all cases where the pensioner contacted the Department in 2020 to query their payments.

4.10 The Department has subsequently also strengthened its governance over the exercise. It initially managed it via a steering group within the Department’s Retirement Services Directorate, but made the exercise into a full programme in June 2021. It appointed a senior responsible owner from outside the Directorate and a separate director-level chair of the programme board.

4.11 Despite these improvements, given the complexity of the rules governing State Pension entitlement, it is likely that at least some errors will continue to be made in the correction exercise, particularly with more complex cases. 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.

How is the Department prioritising cases for review?

4.12 The Department is prioritising pensioners’ cases for review where the pensioner is in multiple ‘at risk’ categories and is still alive. For example, the Department is reviewing approximately 134,000 cases where the surviving pensioner is over 80 or widowed.

4.13 The Department also continues to review cases where the pensioner contacts it to query their payments. This work is done by the same team conducting the LEAP exercise. Between January and September 2021 over 36,000 pensioners had contacted the Department directly. The Department found no evidence of official error in 98% of these cases when reviewed. The Department noted that these requests were occupying “the majority” of available staff, and while it was ahead of schedule in reviewing cases this was slowing progress. The Department has not issued guidance on its exercise to help those that might be worried they have been underpaid.

What happens when a person who has died is owed arrears?

4.14 Where the pensioner has died, the Department should pay arrears to their estate, normally their spouse, or if they were not married or their spouse has died, the identified next of kin. However, the Department is likely to find it difficult to pay arrears to the estates of all those eligible pensioners who have died, because:

- it does not know how many pensioners have died before their underpayments could be corrected. For data protection reasons, the Department does not normally keep records for more than four years after the pensioner's or spouse's death, so this figure is likely to be incomplete. The Department has told us that from April 2021, it is keeping records of pensioners that die to allow access for the LEAP exercise; and
- as at August 2021 the Department had not approved a formal plan to trace the estates of deceased pensioners, including where it holds information on next of kin.

How much has the Department paid out so far?

4.15 Between 11 January and 5 September 2021 the Department reviewed 72,780 cases through the LEAP exercise and pensioners contacting the department directly. It paid out £60.6 million of arrears during this period (**Figure 9** and **Figure 10** on page 40). The Department paid arrears in 11% of all cases reviewed during this period, including 20% of those identified for review as part of the LEAP exercise.

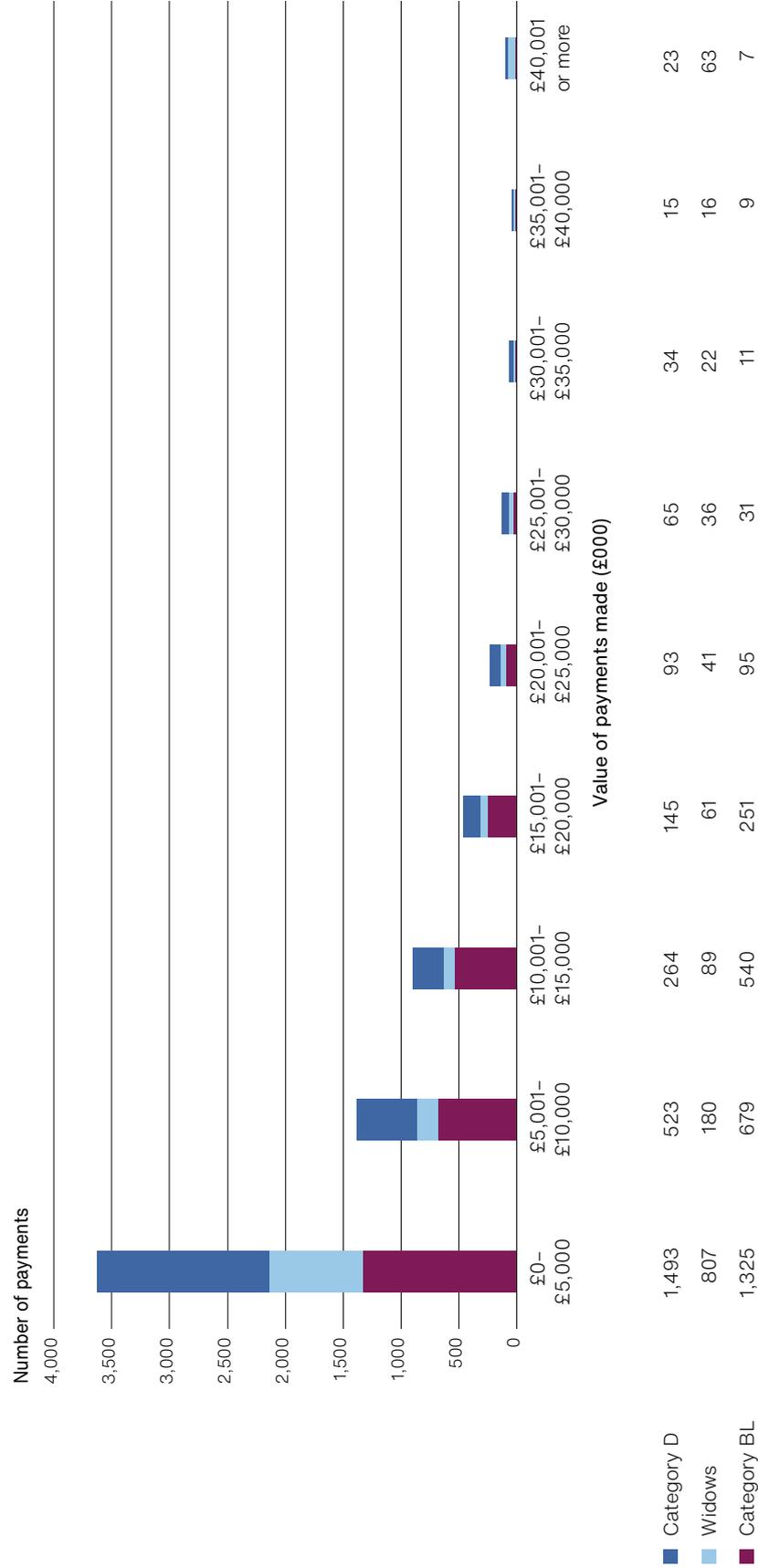
4.16 The majority of arrears paid to pensioners during this period were below £5,000. Payments of more than £40,001 represented 13% (£7.7 million) of total arrears paid during this period.

How is the Department communicating with pensioners whose cases have been reviewed?

4.17 The Department decided to contact pensioners reviewed as part of the LEAP exercise only if a correction was made to their basic State Pension. It was initially agreed that case officers would contact pensioners directly by telephone and letter when the review of the award had concluded. The feedback to the Department from case officers was that pensioners were sometimes distressed to receive these calls. In July 2021 the Department acted on a recommendation from the internally commissioned GIAA review to train case workers on handling difficult conversations, provide call scripts, and have team leaders review customer interactions.

Figure 9
 The value of arrears payments due to official error by category of pensioner affected for payments made 11 January to 5 September 2021

The Department for Work & Pensions (the Department) has made 7,708 arrears payments so far worth £60.6 million since the Legal Entitlements and Administrative Practices (LEAP) exercise began in January 2021. Most have been for less than £5,000 but a few have been for far higher sums



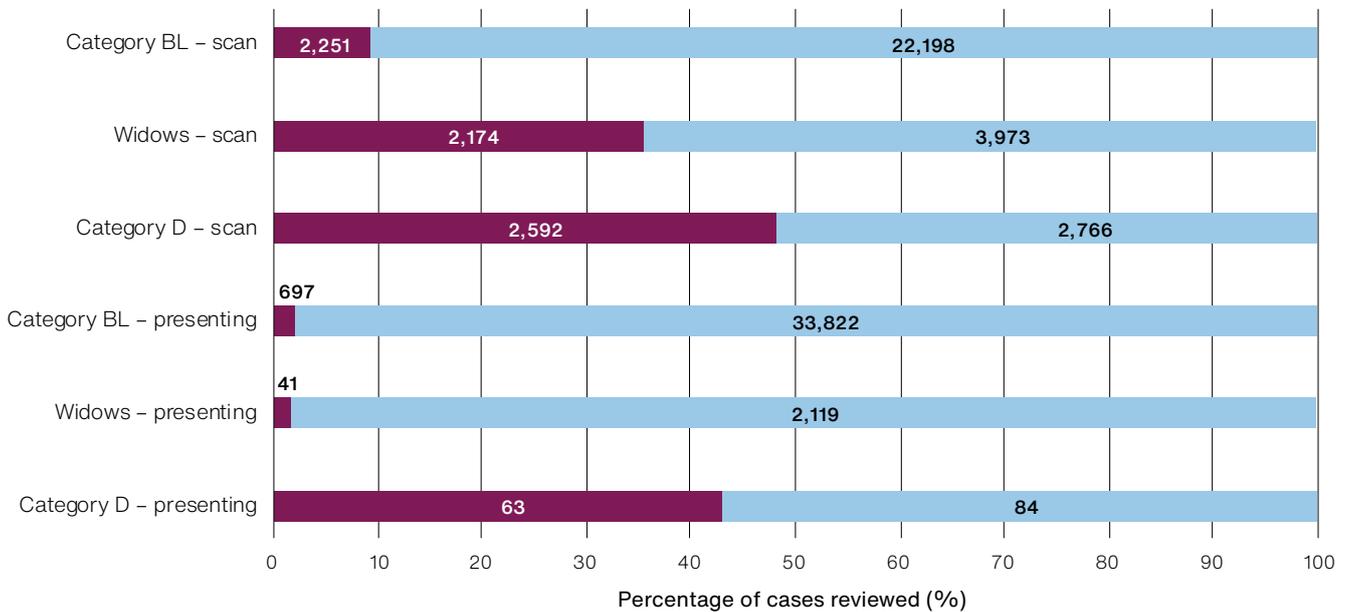
Note
 1 Although there have been relatively few larger payments, they represent a disproportionate amount of the monetary value. Payments of £40,001 or more represent 13% (£7.7 million) of the total arrears paid by the Department.

Figure 10

Proportion of reviewed cases paid between 11 January and 5 September 2021 where official error identified

The Department has reviewed 72,780 cases since it started its Legal Entitlements and Administrative Practices (LEAP) exercise and found 11% contained official error. Most of those that contact the department (presenting cases) have been paid correctly, without any official error

Category of affected pensioner



■ Number of cases where official error identified
 ■ Number of cases where no official error identified

Note

1 Presenting cases are those where an individual has contacted the Department to request a review of their pension entitlement.

Source: National Audit Office review of Department for Work & Pension information

How many similar exercises has the Department conducted?

4.18 The Department has conducted nine LEAP exercises since 2018, of which five are ongoing. It set up a LEAP board and processes for ensuring it properly runs LEAP exercises in 2018 after it discovered that it had underpaid many disabled benefit claimants whose claims had been incorrectly converted from Incapacity Benefit to Employment and Support Allowance. The ongoing exercises primarily relate to underpayments of Personal Independence Payments or Employment and Support Allowance as a result of legal challenges against the Department. All LEAP exercises were paused in March 2020 for a minimum of six months as the Department responded to the COVID-19 pandemic.

4.19 The Department told us it that in response to its learning from running previous LEAP exercises it had sought to improve the robustness of its governance over future LEAP exercises by:

- setting up the LEAP board chaired by the finance director general (which is intended to keep the robustness of departmental LEAP governance under constant review);
- appointing a Department-wide senior responsible officer (SRO) for LEAP with an exercise-specific SRO appointed for each LEAP exercise;
- strengthening links with other departmental boards;
- introducing individual programme boards or steering groups for each LEAP exercise, with director-level leadership for the larger exercises;
- defining the scope and scale of the exercise early;
- using population segmentation to ensure the Department prioritises those cases most likely to benefit from a review;
- using more automation to reduce resource requirement wherever possible; and
- developing a robust resource planning model at the outset.

Appendix One

Our investigative approach

Scope

1 We conducted an investigation into underpayment errors in basic State Pension between July and September 2021, following our audit of the provisions and estimates of the underpayments in the Department for Work & Pensions (the Department) 2020-21 Annual Report and Accounts published in July 2021.¹²

2 The Department estimates that it underpaid 134,000 pensioners their State Pension over many years. This is because a series of human errors have led to a failure in some cases to have their award reviewed upon a change in the pensioner's circumstances. This means that some uplifts to awards have not been applied and pensioners have received less State Pension than they are entitled to. We examined:

- 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).

Methods

3 As part of our statutory audit of the Department's 2020-21 Annual Report and Accounts, we evaluated and tested the estimates supporting the provision for State Pension underpayments as at 31 March 2021 and the related disclosures in accordance with International Standard on Auditing 540 *Auditing Accounting Estimates and Related Disclosures*. This included performing suitable risk assessment procedures and then designing and performing audit procedures to gather sufficient and appropriate evidence to evaluate the estimates. This included, among other things:

- evaluating whether the selected estimate methods complied with the Department's financial reporting framework;
- confirming the Department had applied those methods accurately and consistently;

¹² Department for Work & Pensions, *Annual Report & Accounts 2020-21*, HC 422, July 2021.

- identifying, evaluating and challenging model assumptions;
- evaluating and testing input data, including reperformance of a sample of case reviews supporting the estimates;
- evaluating the causes and extent of estimation uncertainty; and
- reviewing the Department's disclosures in the financial statements.

4 In further examining these issues for this investigation, we drew on a variety of evidence sources:

- we conducted walkthroughs of the administrative processes where the errors occurred and of the correction exercise, to understand the nature of the problems, the controls in place, and the assurance over those controls;
- we spoke with key officials from the Department to establish their understanding of the scale of the error, who has been affected, the impact on pensioners, how the error was identified and the Department's plans to correct the errors; and
- we spoke with front-line staff who have been reviewing cases and making corrections where error has occurred, and administering payouts to the individuals that have been underpaid.

5 We reviewed a range of the Departments documents, including:

- all relevant ministerial submissions;
- operational plans;
- internal analysis and reviews;
- a report by the Government Internal Audit Agency;
- official guidance;
- case studies;
- online transcripts of Parliamentary discussion covering this issue; and
- media coverage and external commentary in relation to the errors.

6 The Department provided our team with additional training on the pre-2016 State Pension rules, drawing on training material used to train its caseworkers.

Appendix Two

Identifying cases at risk of being underpaid

- 1** Using a Legal Entitlements and Administrative Practices (LEAP) process, the Department for Work & Pensions (the Department) aims to identify all the pensioners where it is possible that the error occurred and review their payments to assess whether they have always been correct.
- 2** To identify cases at risk of being underpaid, the Department undertakes scans of its systems to create lists of relevant records and then filters these by certain rules to isolate those where an error could have occurred.
- 3** The Department ran two scans of the Pension Service Computer System (PSCS) (see paragraph 2.3) to identify pensioners who may have been entitled to a top-up on their pension based on their spouse's National Insurance contributions (NICs) (Category BL). It ran:

 - a first scan which it completed in July 2020 to identify pensioners receiving less than the potential full award. This did not contain spouse records, which made the estimated number of affected people highly uncertain; and
 - a second scan in August 2020 to refine the first scan and identify the details of spouse's or civil partner's State Pension.
- 4** The Department could not run scans of the PSCS for widowed pensioners and those aged over 80 due to a planned system upgrade, and instead commissioned scans from its General Matching Service (the system that matches data from multiple government data systems) (see paragraphs 3.5 to 3.8).
- 5** **Figure 11** on pages 45 and 46 shows how the Department defined scan parameters and selected the groups of pensioners for review. It also sets out the groups of pensioners the Department filtered out so as to be out of scope of the correction exercise.

Figure 11 Scans completed by the Department for Work & Pensions (the Department) to identify affected pensioner groups

The Department has run multiple scans to refine its understanding of the underpayments issue

Pension category	System	Criteria for inclusion	Limitations and exclusions
Category BL	Pension Service Computer System (PSCS) (July 2020 and August 2020)	<p>The first scan (July 2020) identified approximately 900,000 pensioners who reached State Pension age (SPa) before 6 April 2016 and were married or had a civil partner during the period of their award where they:</p> <ul style="list-style-type: none"> • receive Category A State Pension at less than the full BL basic State Pension; or • receive Graduated Retirement Benefit (GRB) only; or • Additional Pension only; • GRB and Additional Pension only; or • frozen rates below the standard BL amount. <p>This included cases where partners reached SPa before and after 17 March 2008; and identified where the pensioner was resident in Great Britain, Northern Ireland or abroad.</p> <p>The second scan (August 2020) re-ran the same parameters as the first, but also identified the pensioner's spouse or civil partner records. If a partner's record was found, the scan would examine the partner's record to determine if they had a nil, part or full Category A award to help determine if the pensioner had the correct Category BL title. A nil award implied that a partner was not entitled to a Category BL award; other records are due to be reviewed individually to check that the level of award is correct. The final list included and identified:</p> <ul style="list-style-type: none"> • male and same sex pensioners; • cases where the partner reached SPa before and after 17 March 2008; • cases where the pensioner was resident in Great Britain, Northern Ireland or abroad; • cases where the Department had to look at other systems to find the spouse's award details and undertake manual sift activity; • 'hidden' International cases (that is, where the pensioner's residency status is unclear); and • pensioners whose partners have deferred their State Pension. <p>The Department's analysis of the combined scan outputs removed a group of approximately 213,000 cases where no official error had taken place. This included pensioners whose spouse or civil partner became entitled to State Pension prior to 17 March 2008. These pensioners are required to make a claim for any top-up payment based on their partner's National Insurance record.</p> <p>A further analysis and tracing activity removed around 430,000 cases including those where no spouse details were found; there was no entitlement to Category BL as the spouse had no Category A entitlement, or where male pensioners were found not to be entitled to a Category BL uplift because their partner reached SPa before 6 April 2010.</p> <p>This left approximately 273,000 cases for the Department to manually review.</p>	<p>PSCS does not hold details prior to the State Pension claim and can only identify those who declared themselves as married at the point of claim or during their award period.</p> <p>The scans did not identify those aged over 80 and receiving a Category D pension. A separate scan was commissioned for these categories.</p>

Figure 11 continued
Scans completed by the Department for Work & Pensions (the Department) to identify affected pensioner groups

Pension category	System	Criteria for inclusion	Limitations and exclusions
Widows and widowers	General Matching Service (GMS) (extract of live PSCS database) September 2020	<p>Pensioners with an on-going claim with a Category of ABL, BL, A, D or a GRB, who at the time scan was executed had a:</p> <ul style="list-style-type: none"> deceased spouse or civil partner; and whose category of basic State Pension component appears to be incorrect, for example, where the award did not change following the death of a spouse. <p>The scan also identified pensioners in receipt of Pension Credit to help the Department with planning the prioritisation of the review of the awards.</p> <p>A PSCS scan is planned for November 2021 to better identify this group of pensioners who may have been underpaid. It will provide a more accurate view of those at risk as it will include deceased cases.</p>	<p>The GMS scan parameters were set wide as the scan does not allow a detailed view of distinct elements of a State Pension award.</p> <p>Pensioners who have already been processed as widowed (those on Categories B and AB) were excluded.</p> <p>Pensioners deceased at the time of the scan and pensioners who were bereaved more than once were excluded (it only captured their last partner).</p> <p>Pensioners where Additional Pension/GRB may be inherited where the individual had the full basic State Pension component already were excluded.</p> <p>Pensioners where no date of marriage or National Insurance number is held on their record were excluded.</p>
Over-80s (Category D)	GMS (extract of PSCS database) January 2021	<p>Pensioners:</p> <ul style="list-style-type: none"> aged 80 or over on the date of the scan; with an on-going claim; and whose basic State Pension award is less than the Category D rate. <p>The scan also identified those in receipt of Pension Credit.</p> <p>A PSCS scan was run in August 2021 to better identify pensioners over-80 at risk of being underpaid. The results of this scan are currently being processed by the Department. It will provide a more accurate view of those at risk as it will include deceased cases.</p>	<p>The GMS scan parameters were set wide as the scan does not allow a detailed view of distinct elements of a State Pension award.</p> <p>Deceased eligible pensioners receiving less than a Category D award since the age of 80 were excluded.</p> <p>Pensioners on current Category D rates or receiving new State Pension were excluded due to data limitations.</p> <p>Pensioners who have been living outside the UK since the age of 60 were excluded.</p> <p>Pensioners living outside the UK before the age of 80 and on 'frozen' State Pension rates were excluded.</p>

Source: National Audit Office review of Department for Work & Pensions information

Appendix Three

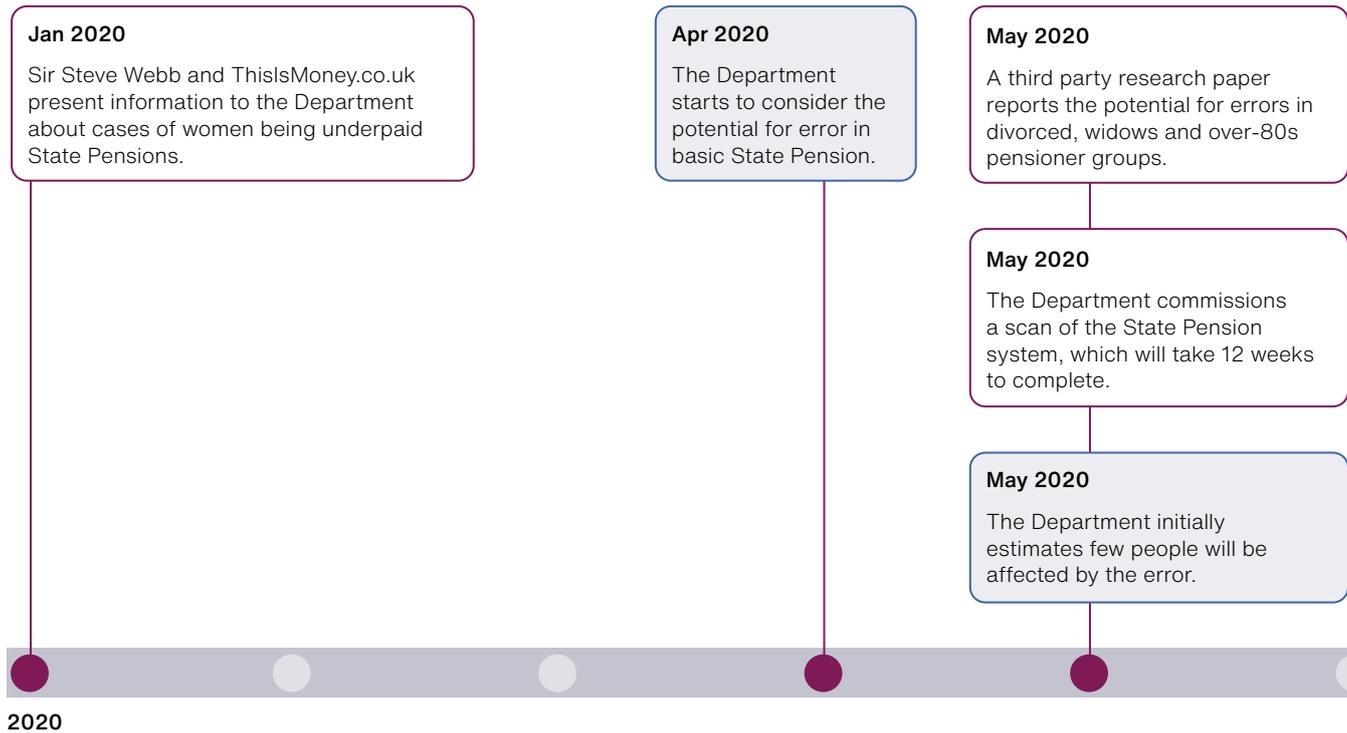
Key events in managing the basic State Pension errors (January 2020 – December 2023)

1 **Figure 12** on pages 48 to 51.

Figure 12

Key events in managing the basic State Pension errors (January 2020 – December 2023)

The errors occurred within the Department for Work & Pensions (the Department) because of the complex nature and administration of State Pension



Key

Key events

Estimates of pensioners affected and arrears by the Department for Work & Pensions

Jul 2020

Initial scan of legacy State Pension system completed. Potential for more than 900,000 cases.

Aug 2020

Parliament pushes government for full investigation.

Oct 2020

Sir Steve Webb launches UK Parliament petition to check State Pension entitlements for all women.

Sep 2020

The Department's Legal Entitlements and Administrative Practices (LEAP) board confirms that a corrective exercise should be a departmental priority due to the number of customers affected.¹

Nov 2020

Government responds to the petition stating 'the government is checking State Pension records'.

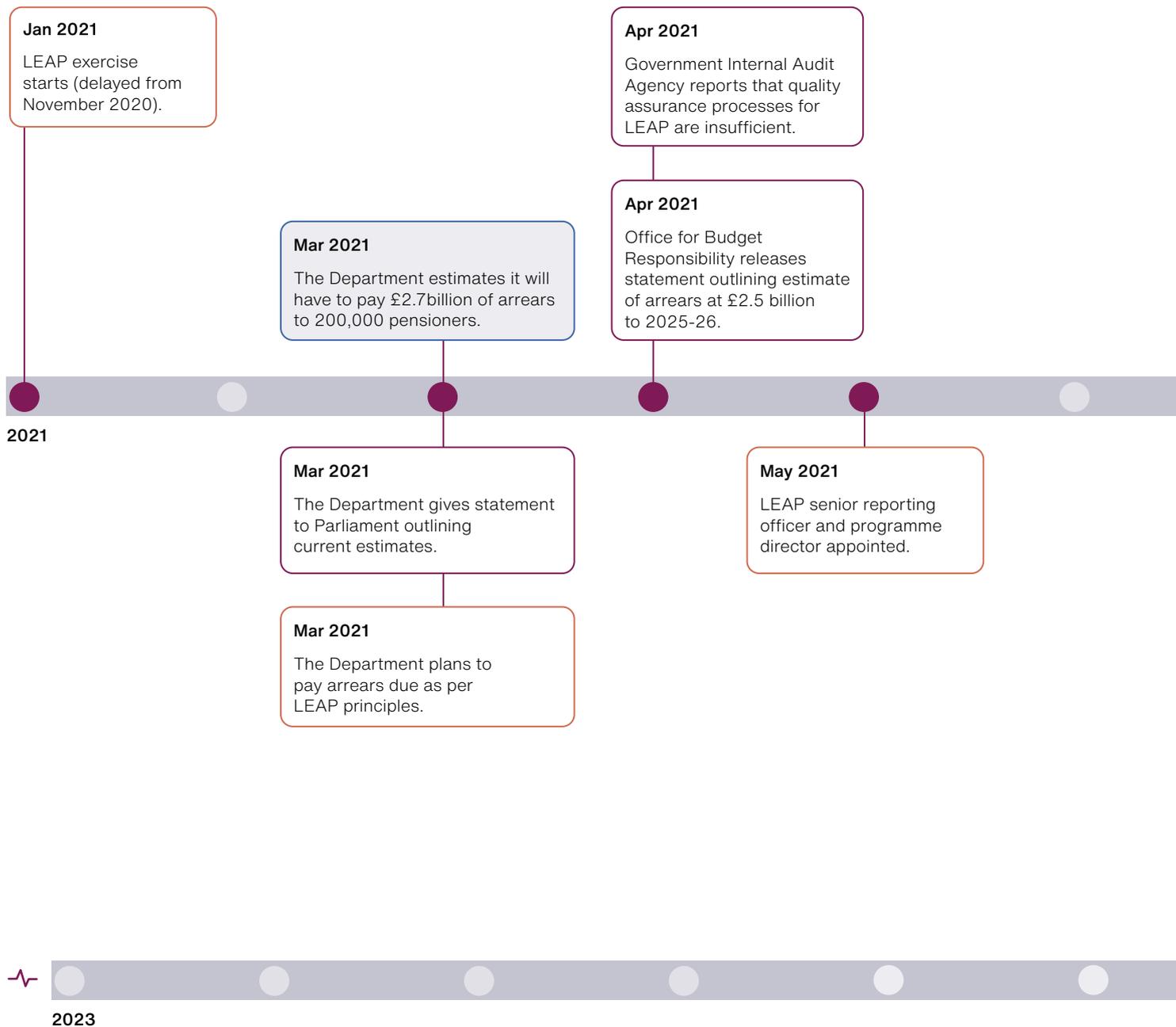
Sep to Dec 2020

The Department continued to refine its estimates of the number of pensioners affected and the value of potential underpayments.

continued

Figure 12 *continued*

Key events in managing the basic State Pension errors (January 2020 – December 2023)



Note

1 More information about LEAP is provided in Parts Three and Four of this report.

Source: National Audit Office review of Department for Work & Pensions information

Key

- Legal Entitlements and Administrative Practices (LEAP) milestones
- Key events
- Estimates of pensioners affected and arrears by the Department for Work & Pensions

Jul 2021
LEAP Programme Board established.

Aug 2021
LEAP Quality Strategy agreed.

Aug 2021
The Department finalises LEAP Category D scan.

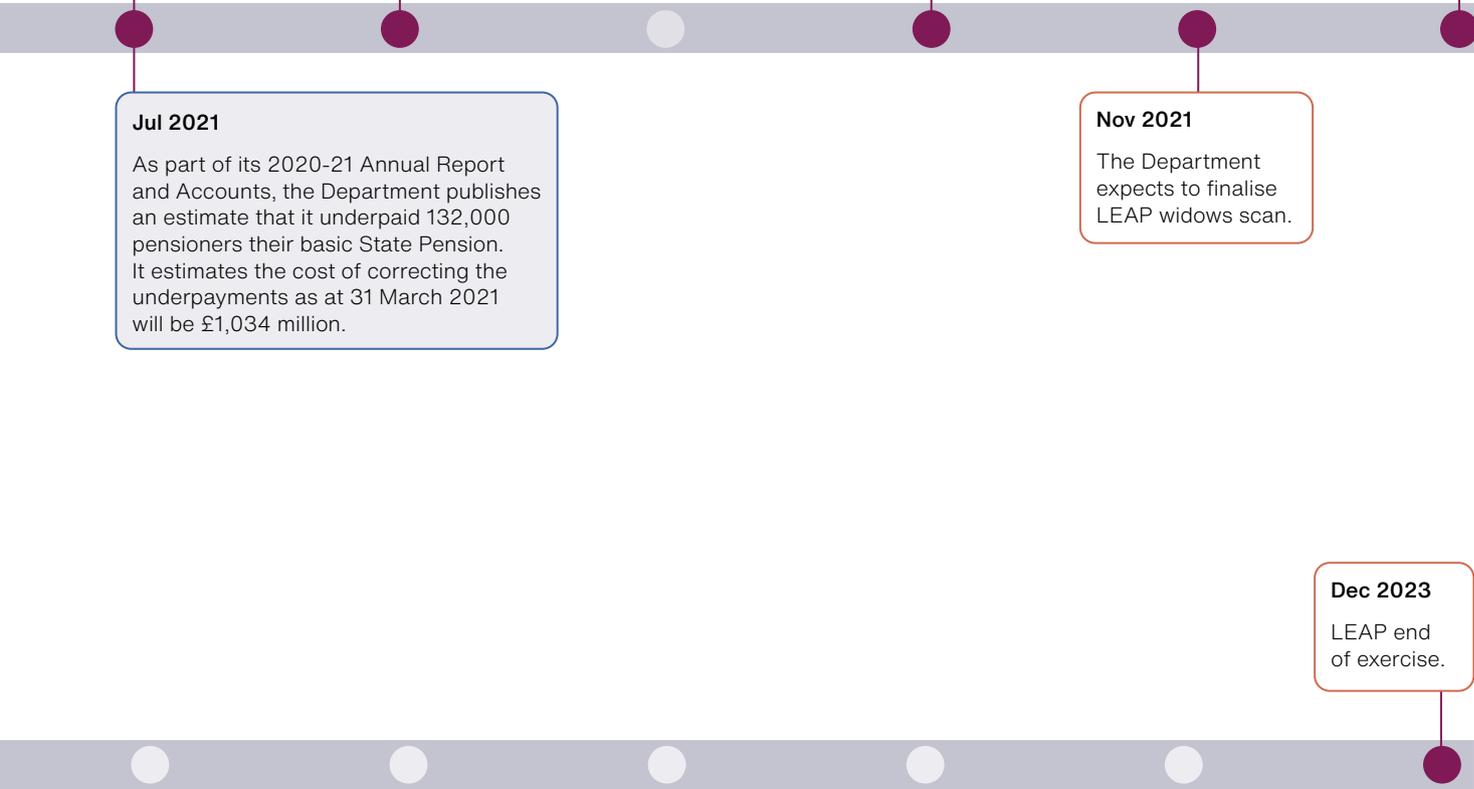
Oct 2021
LEAP Wave 1 staff recruitment starts.

Dec 2021
LEAP Wave 2 staff recruitment starts.

Jul 2021
As part of its 2020-21 Annual Report and Accounts, the Department publishes an estimate that it underpaid 132,000 pensioners their basic State Pension. It estimates the cost of correcting the underpayments as at 31 March 2021 will be £1,034 million.

Nov 2021
The Department expects to finalise LEAP widows scan.

Dec 2023
LEAP end of exercise.



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