

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: FOI2018/09367

21 November 2018

Dear C Thompson,

Thank you for your Freedom of Information (Fol) request received on 13 November. You asked:

I have been reading Pension Act 2011 -supporting documents produced by the DWP

Published 3 November 2011. From: Department for Work and Pensions

House of Lords Select Committee on Delegated Powers and Regulatory Reform

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182065/pensions-bill-2011-dp-memorandum.pdf

and in particular the following paragraph which covers increases later on in retirement.

Under consolidation, actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement.

Under consolidation, actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement. I believe it became law in November 2011 but without a actual start date.

Can you please confirm it did become law in November 2011 .

I believe it that due to the Pension Act 2014, which introduced the New State Pension in April 2016, consolidation of contracted out deductions was not implemented.

If this was the case can you please explain why it was not implemented.

Can you please confirm this and send me any correspondence you have had with the Treasury or any other Government department about not implementing consolidation of contracted out deductions and what was to happen about the old stem of paying GMP indexation via the way you calculated a persons notional additional state pension.

As consolidation did not happen can you tell me if the old law is still applicable as it was not replaced by consolidation of contracted out deductions. Was the old law reinstated. If not can you let me have any correspondence you have with Treasury or any other Government department.

Can you please tell me if Parliament has been told that consolidation of contracted out

deductions was not implemented. If they were told let me have copy of any correspondence.

**Was an Impact assessment done when it was decided no to implement consolidation of contracted out deductions was not implemented.
If one was done can you please let me have a copy.**

The following attached for information from which you will see that a full Impact assessment was done for the original proposal as legislated for in the Pensions Act 2008.1

9. A full Impact Assessment was carried out for the original proposal, as legislated for in the Pensions Act 2008.1

The policy remains broadly unchanged so a further Impact Assessment is not necessary. Any proposal to bring forward the consolidation date would bring forward costs, but a start date for consolidation is yet to be decided. The measure would be broadly cost neutral over the long term.

21. Consolidation will have no impact on a person's overall State Pension income over the course of their retirement. As contracted-out pension rights are offset against additional State Pension entitlement built up before 1997, a number of people would only gain additional State Pension for that period at some time after pensionable age. This is because differences in the way private pension schemes increase rights in accrual and pensions in payment compared to the State scheme can mean that at State Pension age a person's additional State Pension entitlement for that period might be small, or non-existent, but increase later on in retirement. Under consolidation, actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement. This is likely to affect around 11 million people who built up contracted-out pension rights between 1978 and 1997. As a result, there are short-term costs to the Exchequer associated with consolidation, in that additional State Pension entitlement for the pre-1997 period would be paid from State Pension age. However, the measure would provide some flexibility as to when these costs would be incurred.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/181468/pensions-bill-2011-ia-annexf.pdf

Annex F - Other Pensions Act measures

1. Further details of the measures contained in the Pensions Act 2011 are available in the Explanatory Notes accompanying the Act. These can be obtained from <http://www.legislation.gov.uk/ukpga/2011/19/contents/enacted>.

Power to set date for commencement of additional pension consolidation by order

2. With reference to Section 3.

3. Following the measures to simplify State Pensions introduced in the Pensions Act 2007, the Pensions Act 2008 introduced measures to further simplify the state second pension scheme, with the aim of helping people to understand their entitlement.

4. The 2008 Act provides for earnings-related State Pensions built up before the flat rate introduction year to be combined into a single cash amount (a process known as consolidation). It also provides that only people reaching State Pension age from 6 April 2020

would have any earnings-related State Pension combined in this way. Based on the legislated timetable for increasing women's State Pension age, 6 April

2020 is the date that State Pension age for men and women is equalised. The policy intention was that at State Pension age this cash amount would be added to flat rate additional State Pension (built up from the flat rate introduction year) and basic State Pension to form a person's overall State Pension entitlement.

5. Section 3 is a technical measure designed to provide flexibility as to the period covered by consolidation, and the group affected. The clause removes references to the start date as being the flat rate introduction year. It also removes the provision that only those reaching State Pension age from 6 April 2020 would be affected by consolidation. The clause also provides an order making power for the Secretary of State to set the date at which consolidation will occur and the group who will have any earnings-related State Pension combined in this way.

6. All other aspects of the existing policy would remain the same. As such, any earnings-related State Pension built up before the consolidation date would be combined into a single cash amount based on the rules in force at that time. The measure would have no impact on a person's overall State Pension income over the course of their retirement.

PENSIONS ACT 2011 – IMPACTS – ANNEX F: OTHER MEASURES 7. As contracted-out pension rights are offset against additional State Pension entitlement built up before 1997 a number of people would only gain additional State Pension for that period at some time after State Pension age. Under consolidation actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement. This is likely to affect around 11 million people who built up contracted-out pension rights between 1978 and 1997.

8. Under consolidation the pattern of payments a person with pre-1997 contracted-out rights receives would change. Their entitlement would be flattened over their retirement resulting in a greater amount paid early in retirement and less paid later. The amount of any individual gain or loss is measured relative to average life expectancy. There would be no effect on the total retirement income of a person who lives to average life expectancy; however, a pensioner who dies earlier than average would gain with losses experienced by those who live longer than the average.

9. A full Impact Assessment was carried out for the original proposal, as legislated for in the Pensions Act 2008.¹ The policy remains broadly unchanged so a further Impact Assessment is not necessary. Any proposal to bring forward the consolidation date would bring forward costs, but a start date for consolidation is yet to be decided. The measure would be broadly cost neutral over the long term.

DWP Response:

Consolidation was introduced in Pensions Act 2008 to simplify the way that contracting out was reflected in people's additional State Pension. The legislation only affected those reaching State Pension age from a specific date (originally 6 April 2020, but flexibility over the start date was legislated for in Pensions Act 2011).

The legislation was superseded by Pensions Act 2014 which abolished additional State Pension from 6 April 2016. The new State Pension Starting Amount had the effect of

consolidating additional State Pension and the contracted out deduction on 6 April 2016 for people reaching State Pension age after that date.

The policy objective for consolidation was to simplify a particularly complex part of additional State Pension. The new State Pension greatly simplified the entire state pension system including additional State Pension and specific aspects of the old scheme, such as consolidation, were not subject to correspondence with HMT, were not considered separately by Parliament and were not subject to an impact assessment.

Yours sincerely,

DWP Central Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwpgsi.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF
https://ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745