

Dear Pauline Hinder,

Thank you for your Internal Review request received on 13th July 2018. An internal review has been carried out by someone of a senior grade to the person who dealt with your original request. I am now in a position to respond to you. In your original request FOI 1663 you asked:

- *Please provide me with the number of women aged 60+ in receipt of a state pension based on their ex-husband's NI record. This is a pension based using the Reduced Rate Election rules.*
Please provide me with the number of women aged 60+ who were divorced before retirement and receive their state pension based on their own NI record.

In response to your request for Internal Review, I can confirm that the handling of your original request and response has now been appropriately reviewed by someone unconnected with the handling of your original request.

As a result of this review I can advise that I find the original decision to be correct. Your request for review is therefore not upheld. The reasoning behind this decision is as follows:

- You did not supply enough information for us to be able to respond to your original questions. We therefore asked you for clarification.

We note that as part of your Internal Review request you have raised the following new questions:

- *I am concerned for divorced women who paid MWRE, then divorced were not offered or did not know they could claim on their ex-spouses NI record (to 2016) for a better pension than on their own record.*
So
 - 1) *What efforts are being made to send targeted information about the 2 options all MWRE who have returned their MWRE and ticked reason for return as 'divorced' may be entitled to?*
 - 2) *If the DWP has not contacted all those affected, the claimants may be underpaid pensions based on their own short NIC record. Or worse still, the DWP may write asking for NIC top-ups payments that are completely unnecessary as the claimant would be entitled to more pension, had she not remarried/in a civil relationship, on her ex's NIC record.*

3) *I wish to know*

-how many women opted to pay MWRE to date,

- how many still have a current MWRE entitlement

- how many of all MWRE optants are still alive -how many former MWRE who divorced and may be eligible under the RRE rules potentially for a better state pension.

4). *As this MWRE group of contributors have been fully 'certificated and tracked' in all their employments, by employers the DWP should have 100% reliable and full reference records.*

5) *please fully explain the treatment of women who fit the RRE rules in both scenarios; ie their ex is living or if their ex is deceased.*

The answers to your new questions are as follows (numbering follows the ordering of your above questions):

Your questions generally

It is not clear whether you have requested information in terms of those who reach State Pension age before 6 April 2016, or those who reach State Pension age from 6 April 2016 who will receive the new State Pension. Our response therefore covers both scenarios.

- 1) Depending on whether they reach State Pension age under the old or new State Pension system, a woman who is divorced may be able to improve her State Pension amount. Different rules apply depending when State Pension age is reached.

Individuals who reached State Pension age before 6th April 2016 may be able to increase their basic State Pension up to the full amount (£125.95 a week in 2018/19) if (i) their own basic State Pension amount is less than the full amount, and (ii) their former spouse or civil partner had enough National Insurance contributions.

If their former spouse or civil partner reached or will reach State Pension age on or after 6th April 2016, only their National Insurance contributions up to 5th April 2016 can be used (or their National Insurance for the period up until the marriage ended if earlier). In addition, if the individual remarries before State Pension age, she ceases to be covered by her former spouse or civil partner's National Insurance because at the time she reaches State Pension age she is a married woman.

Individuals who reach State Pension age from 6th April 2016 – under the new State Pension rules an individual's State Pension is normally based on their own National Insurance contribution record only. However, if at some point before May 1977, they either chose to pay the married woman's reduced-rate National Insurance contributions or chose not to pay Class 2 contributions as a self-employed married woman, and this election was applied within the 35 tax years before the tax year in which the individual reaches their State Pension age, we can work out how much State Pension they may get using an alternative calculation. This calculation may give them a higher State Pension amount than the post-6th April 2016 rules which rely on using their own National Insurance record.

For those who are divorced and have paid reduced-rate National Insurance contributions, if their entitlement is higher under the alternative calculation they will receive a State Pension of £125.95 a week (2018/19 rates) plus any additional State Pension and Graduated Retirement Benefit they built up before 6th April 2016.

- 2) When a person makes their State Pension claim they will be asked to provide details of their current marital status. Where we are aware that the individual is divorced we will automatically consider if their State Pension can be improved. If there is potential to improve the person's State Pension amount they are then asked to send in certified evidence to confirm the divorce (unless we've already seen that evidence). This would include requesting information about the former spouse or civil partner.

The payment of voluntary National Insurance contributions is a consideration for individuals to make for themselves based on their specific personal and financial circumstances. People are able to discuss with DWP, and where appropriate HMRC, whether paying voluntary class 3 National Insurance contributions may improve their State Pension amount (including the higher amount they may be able to receive based on their former spouse or civil partner's National Insurance record), and then decide if this is an option they wish to take.

- 3) Administrative data, based on a 1% sample of HMRC's National Insurance Recording System, shows that at the end of the financial year 2016/17 (the latest data available), approximately 4.9 million women held an RRE at some point in time, of which 2.8 million were still alive. There were 800 women recorded as having an open RRE liability, although they may have stopped making contributions.

As at the end of September 2017 (the latest data available), there were approximately 215,000 divorced women in receipt of a State Pension who had paid National Insurance based on RRE rules prior to 6th April 2016. This is divorced women who have ever held an RRE being in receipt of a Category A pension by substitution¹. There were approximately 180 divorced women under the new State Pension rules receiving an amount based upon having previously held an RRE.

- 4) HMRC maintain National Insurance records including details of periods for which an individual has made a valid Married Woman's Reduced Rate Election (MWRRE). Individuals with questions about MWRREs can contact the HMRC National Insurance helpline on 0300 200 3500.
- 5) Under the two scenarios described above at (1) whether the former spouse or civil partner is deceased would not affect their position, but the death of a spouse or civil partner could have an effect in other categories of State Pension.

If you have any queries about this letter please contact us quoting the reference number above.

Yours sincerely,

DWP Strategy Fol Team

¹ Source: 1% sample of HMRC's National Insurance Recording System and 5% sample of DWP's State Pension records.

Your right to complain under the Freedom of Information Act

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 www.ico.gov.uk