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**BRIEFING PAPER**

Number CBP 2868, 28 May 2020

# State Pension deferral

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# Summary

The option to put off claiming the State Pension in return for a higher amount has been part of the system since 1948.

Initially, increments were based on the number of flat-rate contributions paid during the period of deferment. However, since April 1975, they have been calculated as a percentage of the basic State Pension and based on the length of time deferred - 7.4% of the weekly rate for each full year deferred.

The Labour Government made changes in the *Pensions Act 2004,* improving the rewards for deferral to encourage flexible retirement (Cm 5677, ch 6, para 39-43) by:

- increasing the amount of extra pension gained 1% for each five weeks deferred (or around 10.4% for each full year); and
- introducing the option of a lump sum for those who had deferred for at least a year.

For people reaching State Pension age from 6 April 2016 – and therefore eligible for the new State Pension – the reward for deferral has been reduced (to 5.8% of the weekly rate for each full year deferred) and the option of the lump sum has been removed (*Pensions Act 2014*, s16-18 (SI 2015/173, reg 10). The Government's intention was to set the reward for deferral at a rate that would "more closely reflect the value of the income foregone" (Explanatory Notes to SI 2015/173 para 7.27; DWP, *Single-tier Impact Assessment,* October 2013, para 50).

When the legislation was before Parliament, Labour Peer Baroness Hollis argued that the option of a lump sum should be retained, given the importance of savings to meet unexpected costs. Responding, the then Work and Pensions Minister Lord Freud said people still had the option of delaying their State Pension claim for 12 months and receiving the arrears as a lump sum (although there would be no interest on the arrears). The Government wanted its State Pension reforms to be cost neutral and the reduced incentives to defer played a "key role in flattening expenditure"(HL Deb 24 February 2014 c776-8).

The Cridland Review of the State Pension age recommended that the Government re-introduce the option of a lump sum on deferral and change the rules to enable partial drawdown of the State Pension so that people could afford to continue working but reduce their hours (Final Report, para 5.6.1-2).

# 1. Introduction

To encourage people to stay economically active and provide for themselves, the amount of State Pension can be increased if the individual delays claiming beyond State Pension age.[1]

The State Pension was reformed under the *Pensions Act 2014,* with a new State Pension introduced for people who reach State Pension age before 6 April 2016. As part of this, the reward for deferral was reduced and the option of a lump sum removed. There is a general overview on Gov.UK - delay (defer) your State Pension.

## Information and guidance

### People reaching State Pension age before 6 April 2016

The relevant legislation is the *Social Security Contributions and Benefits Act 1992*, s55 and Sch 5 and regulations made under it, including the *Social Security (Deferral of Retirement Pensions) Regulations 2005 (SI 2005 No. 453)* and the *Social Security (Deferral of Retirement Pensions etc) (SI 2005/2677).*

There is guidance on Gov.UK (deferring your State Pension for people reaching State Pension age before 6 April 2016) and in DWP's Decision Makers' Guide –chapter 75 (para 75291ff).

There is guidance on the tax implications of State Pension deferral is in HMRC's PAYE manual and from the Low Income Tax Reform Group.

### People reaching State Pension age from 6 April 2016

For people reaching State Pension age from 6 April 2016, the relevant legislation is the *Pensions Act 2014* s 17 (4) and the *State Pension Regulations 2015 (SI 2015/173)*, regulation 10.

Guidance is in Decision Makers' Guide, Chapter 74 (para 74501 ff).

## Numbers

DWP does not hold information on how many people have yet to claim their State Pension. It does hold data on the numbers that received a lump sum or enhanced pension as a result of having deferred their claim.[2]

As of September 2019, 8% of all State Pensioners living in Great Britain or abroad were in receipt of an 'increment' on top of their State Pension entitlement as a result of having deferred their claim (988,400 out of 12.6 million). 11% of female State Pensioners had an increment, and 5% of male State Pensioners had an increment.[3]

Looking at place of residence, the percentage of State Pensioners with an increment is highest among claimants living abroad (20%), followed by those living in London (10%). The percentage is lowest among

1 IFS, The history of state pensions in the UK: 1948 to 2010, 2010, section 3.5.1
2 PQ 52159 17 November 2016
3 DWP benefits statistics: May 2020: State Pension caseload statistics (5% sample) to September 2019, table 1

residents of the North East and North West of England and the West Midlands (all 5%).[4]

The overall percentage of State Pensioners with increments in their payment has been in gradual decline over the past 15 years, from a peak of 11% in 2004 to 8% in 2019. [5]

Of those who reached State Pension age before 6 April 2016, as at September 2018, 40% of those who had previously deferred their claims, had received lump sum payments.[6] As discussed below, a lump sum deferral payment is not an option for individuals who reach State Pension age from 6 April 2016.

4 Library calculations based on DWP benefits statistics: May 2020: State Pension caseload statistics (5% sample) to September 2019, tables 2a and 2b

5 DWP benefits statistics: May 2020: State Pension caseload statistics (5% sample) to September 2019, table 1

6 PQ 263665 17 June 2019

# 2. The reward for deferral

## 2.1 Background

The initial legislative impetus for State Pension deferral was in the Beveridge Report, which recommended that:

> 1. There should be no fixed age for retirement but only a minimum pension age of 65 for men and 60 for women, at or after which each individual would have the option of retiring and claiming pension. Such a flexible age of retirement would meet human as well as economic realities.
>
> 2. In order to give people an incentive to continue at work after minimum pension age, additional pension should be payable related to the period for which retirement was deferred. The addition should be sufficiently strong to encourage deferment but below the full actuarial value of the pension foregone.[7]

From July 1948 to March 1975 increments were based on the number of flat rate contributions paid as an employed or self-employed person during the period of deferred retirement. The incremental return was the same whether the basic pension was at the standard rate, or at a reduced rate as a result of partial satisfaction of the contribution conditions. Once awarded, increments remained fixed in money terms. In addition, people had to keep paying national insurance during the weeks of deferral.

From April 1975 increments were calculated as a percentage of the basic State Pension and the length of time deferred.[8] People could defer claiming their state pension for up to five years – in return for an increase, or "increment", of 1/7th of 1% of the weekly pension (7.4% of the weekly rate for each full year deferred). DWP explained:

> 1199. A person is entitled to retirement pension from age 60 for a woman and age 65 for a man, providing he makes a claim for it. If a person does not claim his pension from that date he will not receive any pension for the period between pension age and the date of claim. He will instead qualify for an increase to his weekly pension from the point at which he does claim.
>
> 1200. A person may also be eligible for increments through electing to cancel his entitlement to retirement pension. For example, having drawn his pension at age 65, a man may choose to cancel his entitlement at age 66. A person may cancel his entitlement in this way once only. This means there are in effect two possible opportunities to earn increments – the first, by not claiming on reaching pensionable age; the second, by electing to cancel entitlement after claiming.
>
> 1201. The amount of the increase is calculated using a formula which results in an increase, or "increment", of 1/7th of 1% of

7 William Beveridge, *Social Insurance and Allied Services* (Cmnd 6404) 1942; As reported in: Secretary of State for Social Services' Report under Section 6 of the *Social Security (Miscellaneous Provisions) Act 1977* on *The Earnings Rule for Retirement Pensioners and the Wives of Retirement and Invalidity Pensioners*, HC 697: 1977-78, p27

8 *Social Security (Miscellaneous Provisions) Act 1977*. The earnings rule for retirement pensioners and the wives of retirement and invalidity pensioners, HC 697: 1977-78, pp30-31

> the weekly pension as at the date of claim, for each "incremental period" (equivalent to a week) in the deferment period. Increments of less than 1% cannot be awarded; therefore to qualify for an increase a person must defer claiming for at least seven weeks. The incremental rate is currently equivalent to approximately 7.4% of the weekly rate for each full year deferred. For example:
>
> - total number of weeks deferred = 52
> - weekly pension (basic plus additional) at date of claim = £90
> - amount of increase = 1/7 × 90/100 × 52 = £6.69
> - total weekly pension = £96.69
>
> 1202. Increments may normally be earned for a maximum of five years, and may be accrued on all components of the contributory state retirement pension i.e. Category A and B pensions and Graduated Retirement Benefit (the predecessor to the present earnings-related additional State Pension).[9]

Under these rules, the maximum reward for an individual who deferred for five years was 37%. DWP estimated that around 20,000 people in Great Britain deferred their State Pension claim each year. On average they deferred for around two years.[10] The Pensions Policy Institute commented that there was no research on why people actually deferred and that there was a strong hypothesis that people did so by accident, (particularly women who assumed that the start of their pension was linked to their husband's pension age and overseas residents for whom DWP did not have the correct address).[11]

## 2.2 *Pensions Act 2004*

The *Pensions Act 1995* had provided for the five-year limit on deferral to be removed and the weekly rate of deferred retirement increments to be increased with effect from April 2010.[12]

In its 2002 Pensions Green Paper, the Labour Government proposed bringing this forward to 2006 and introducing a lump sum option:

> **More generous increases for deferring state pensions**
>
> 39. The Government also recognises the role of the State Pension in encouraging flexible retirement. If people wish to delay taking their State Pension, they should be paid an increased amount to take account of the fact that they will be receiving it for fewer years. The Government intends to ensure that people who choose to work beyond State Pension age and defer taking their pension are properly rewarded by the State system.
>
> 40. Currently, a person who does not draw their pension at State Pension age has their pension increased by around 7.5 percentage points for each year it is deferred, up to a maximum of five years. Under existing legislation this will increase to around 10.4

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[9] Pensions Act 2004 – Explanatory Notes

[10] Pensions Commission, Pensions: Challenges and Choices: The First Report of the Pensions Commission, October 2004, Appendix F, page 142

[11] *Deferring State Pension* Pensions Policy Institute, Briefing Note Number 4, September 2003

[12] Pensions Act 1995, Section 126, Schedule 4, para 6

> percentage points for each year in 2010. The Government proposes to bring forward the date of the increase so that people can benefit from it as soon as possible. We will involve the Government Actuary's Department in discussions to ensure that the rate is fair. We will also remove the existing five-year limit on increases. The change will apply to new cases. We expect to be able to make the change by 2006.
>
> 41. As well as improving arrangements for deferral, the Government proposes to offer a choice of either an increased regular State Pension or a taxable lump-sum payment, to compensate people adequately for deferring their pension. Some people may find the prospect of a lump sum more attractive than a comparable regular pension increase.[13]

This was legislated for in the *Pensions Act 2004* (s297), which amended the *Pensions Act 1995* to bring forward the commencement date of the 2010 changes to April 2005. No other substantive changes to the structure or calculation of increments are made. Regarding the extra State Pension earned by deferral, this meant that:

> […] a person who defers his State Pension accrues increments according to a formula which earns an increase to the weekly pension, when finally claimed, equal to 1% extra for every seven weeks of deferral (approximately 7.5% extra, for each year deferred). The amount of increments a person may earn is capped by provisions which limit accrual to a maximum of five years. The *Pensions Act 1995* amended these provisions with effect from April 2010 to increase the accrual rate to the equivalent of 1% for every five weeks (or 10.4% a year) and to remove the five-year time limit.[14]

The conditions for the lump sum were:

> **The lump sum – general conditions**
>
> 1213. The lump sum will be an option only after a person has deferred for at least 12 months (in contrast to increments, which, following the change in accrual rate, will be payable after five weeks' deferment). However, as with increments, there will be no upper limit on the length of time a person may defer and accrue a lump sum.
>
> **Calculation**
>
> 1214. The lump sum will be based on the pension a person would have been entitled to had they not deferred, plus a rate of return that will be applied weekly and compounded. The pension forgone will be calculated at the rate that would have been applicable in each week (or "accrual period") for which the person defers.[15]

More detailed guidance on these is in Pension Service leaflet, *State Pension Deferral: Your Guide* (May 2008).

[13] DWP, Simplicity, security and choice: Working and saving for retirement, December 2002, Cm 5677
[14] SI 2005/453 Explanatory Memorandum, para 4.1
[15] Pensions Act 2004 – Explanatory Notes

## Tax and benefit implications of lump sum

When the 2004 Act was before Parliament, questions were asked about how the lump sum would be taxed. A DWP press notice sought to give reassurance, explaining that:

> New tax arrangements mean the lump sum will be taxed at the marginal rate applied to people's other income in the year they claim it, so no one will be brought into tax or move up a tax band as a result of claiming a lump sum. People will also be able to choose to delay receiving it until the following tax year when their income may be lower.[16]

When the legislation was before Parliament, the then Pensions Minister, Malcolm Wicks, said:

> New tax arrangements will remove potential disincentives for those aiming for a lump sum. […] First, the lump sum will not be added to other income received during the year in which it is paid out. It will not push the person into the next tax bracket. Instead, it will be taxed at the marginal rate that applies to the person's other income.
>
> Secondly, the person will be able to choose when to receive his or her lump sum payment, either when he or she claims the pension or, if he or she wishes, at the start of the following year. People who would see their income fall in the year after they claimed their pension could, in effect, choose to have their lump sum taxed at the rate that would apply to their usual level of income in retirement, not at the higher rate that applied while they were in work. Lastly, the lump sum will not count as income against the higher personal allowance for people aged 65 and over.[17]

The ability to take the lump sum either at the point of claim or in the following tax year was provided for in the *Finance Act (No. 2) 2005*.[18]

A lump sum on State Pension deferral is ignored for the purposes of calculating entitlement to means-tested benefit benefits such as Pension Credit and Housing Benefit.[19]

The decision to tax the lump sum – in contrast to private pensions, where there is the option to take 25% as a tax-free lump sum - provoked criticism from Help the Aged, which said: "if the overall purpose is to encourage people to work for longer, then if they slap a tax on the lump sum, they diminish the incentive."[20]

There is guidance on the HMRC website and the Low Income Tax Reform Group explains some of the complexities that can be involved.

16 DWP press notice, "Generous interest rate set for state pension lump sum", 24 February 2004
17 SC Deb (B) 16 March 2004, c190-191
18 Sections 7 and 8; EN-HC Bill 8, session 2005/06, clause 7 paras 1, 11 and 12.
19 SI 2006/2677; DWP, A detailed guide to Pension Credit for advisers and others, Jan 2019, p42
20 "Pension lump sums will not be tax free", *The Daily Telegraph*, 27 May 2005

## 2.3 From 6 April 2016

The Coalition Government reformed the State Pension, introducing a new State Pension for people reaching State Pension age from 6 April 2016.[21]

In a preceding White Paper in January 2013, it said deferral would still be an option under the new State Pension, but there would no longer the option of a lump sum and the reward for deferral would reduce.[22]

In October 2013, it said the existing rewards were "actuarially generous" and that it would change them to "more closely reflect the value of the income foregone by the delay:

> The ability to defer claiming the state pension will be retained under single tier, but the deferral reward will change to more closely reflect the value of the income foregone by the delay in drawing a single-tier pension, and it will no longer be possible to receive a lump-sum payment. In the analysis we assume that state pension will increase by 1 per cent for every 10 weeks that it is deferred. The decision on the rate will be informed by the latest actuarial factors, such as life expectancy, considering advice from the Government Actuary's Department (GAD), and the fit with the Government's agenda for supporting people who wish to work longer. It will not be possible to inherit the increments built up from deferring a single-tier pension.[23]

Regarding the impact of this, it said:

> Deferrals: the ability to take a lump sum will be ended, and the rate of increment for deferral will be set closer to implementation and so for illustrative purposes, this paper assumes a rate of 1 per cent for every ten weeks' deferral. We expect that between 10,000 and 25,000 people will be affected each year by the end of the ability to take a lump sum and the change to the rate of return for deferrals. We estimate this component to save around £200m in 2020, rising to £300m by 2030 (in 2013/14 prices).[24]

At Report Stage in the Lords, Baroness Hollis moved an amendment to retain the option of a lump sum for who had deferred their State Pension. She stressed the importance of pensioners having savings to meet unexpected costs. She did not accept the Government's argument that the removal of the lump sum was a simplification measure.

> The Government propose to abolish the choice of taking that saved-up pension as a lump sum; it will be available to people only as an addition to the state pension. They are removing the choice of a savings sum from future pensioners. Currently, of the 1.2 million who defer their pensions, 63,000 take the lump sum, which was, on average, just under £14,000. In future, that option will be scrapped. Why? The Minister for Pensions, Steve Webb, is absolutely clear that he is doing it to "simplify the system". It is not about costs at all, he says, just about simplicity. What is so

21 *Pensions Act 2014*
22 DWP, The single-tier pension: a simple foundation for saving, January 2013 (Cm 8528), p 99
23 DWP, Single-tier Impact Assessment, October 2013, para 50
24 Ibid para 95

> difficult to understand about a lump sum of your two years or so deferred pension?[25]

Lord Freud responded that the removal of the lump sum option had played a "key role in flattening expenditure." The "early-year savings" that this delivered had been "ploughed back into the single-tier design." People would still have the option of delaying their claim for 12 months and receiving the arrears as a lump sum (although there would be no interest on the arrears).[26] Baroness Hollis hoped Ministers would ensure people were aware they could take their pension lump sum in arrears after 12 months. She was disappointed by the reply but withdrew the amendment.[27]

The deferral provisions for the single-tier are in sections 16 to 18 of the *Pensions Act 2014*. Regulation 10 of the *State Pension Regulations 2015 (SI 2015/173)* provides for the rate of increment to be 1/9th of 1 per cent for each week of deferral. The Explanatory Notes say:

> 7.28 Following advice from the Government Actuary's Department (GAD) on an actuarially fair rate for deferral, the Government announced that it would be set at 1/9th of 1 per cent of the weekly pension for each week of deferral (regulation 10), equivalent to just under 5.8 per cent for a full year. Section 17 of the Act provides that (as now) any increase of less than 1 per cent is not payable, so a person must defer for at least 9 weeks to get an increase.

In his independent review of the State Pension age, John Cridland recommended reintroducing the lump sum option:

> Increments are likely to be a poor choice for low paid people considering deferring – as a rule of thumb someone aged 65 would not get their money back through deferral until they are into their 80s. These arrangements need to be reviewed so that deferral provides the low paid with opportunities currently more feasible for the better off. Taking a lump sum at the end of the deferral period, made up of the deferred State Pension amount plus an uplift, may be a better option, as people do not have to wait until their 80s to see the benefits. For this reason we recommend that the Government enable people to benefit from deferring by taking a lump sum.[28]

It also thought the State Pension should be reformed to enable partial retirement:

> For example, after State Pension age someone could drawdown half their new State Pension to subsidise their wages and leave the other half to grow through the deferral arrangements. We recommend introducing this into the State Pension and believe that it would offer overall value to the taxpayer. We believe that those reliant on State Pension should be able to benefit from the same kind of flexibility available to those with private savings, and that it would be an incentive to work beyond the State Pension age. Both of the measures described above (deferrals and partial

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25 HL Deb 24 February 2014 c776
26 Ibid c778
27 Ibid c781
28 Smoothing the transition: review of the State Pension age final report, March 2017, para 5.6.1

> draw down) should be introduced as soon as possible, but at least 10 years before the increase of State Pension age to 68.[29]

The Government did not respond to these recommendations in its own State Pension age review, published in July 2017.[30]

## 2.4 Uprating

The extra State Pension people earn by deferral (sometimes referred to as deferred retirement increments) is uprated in line with prices.[31]

In other words, the more generous uprating arrangements that apply to basic State Pension (BSP), do not apply to the extra amounts earned by deferral. The statutory requirement is to uprate the BSP at least in line with earnings.[32] Over and above this, there is a government commitment to uprate it by the triple lock (the highest of earnings, prices or 2.5%).[33]

In March 2010, the then Work and Pensions Minister Lord McKenzie explained why these arrangements did not apply to other parts of the State Pension:

> The proposed 2.5 per cent increase in the rate of the basic state pension from April 2010 will not be applied to the extra state pension payable to those recipients who have deferred their state pension. The Retail Prices Index showed that prices had fallen for the 12 months ending in September 2009. Given this evidence the Government have decided to maintain the value of increments at 2009-10 rates.
>
> People with increments who deferred their state pension for at least one year since 2005 get a state pension that is 10.4 per cent higher than if they had not deferred. They will also benefit from the 2.5 per cent increase in the basic state pension announced at the Pre-Budget Report. We are writing to every individual in receipt of state pension with an uprating notification which clearly states that, while basic state pension is increasing by 2.5 per cent, increments and additional pension are not.
>
> In addition, the increase in the basic state pension will be reflected in the value of increments being accrued by those who are currently deferring their state pension.
>
> The booklet SPD1 State Pension Deferral-Your Guide is being updated to reflect the change from April 2010 and the other leaflets and website are being updated to reflect the Pre-Budget Report. [34]

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29 Ibid, para 5.6.2
30 DWP, State Pension age review, July 2017
31 Social Security Administration Act 1992, section 150 (1) (d)
32 Social Security Administration Act 1992, section 150A
33 HM Treasury, Budget 2010, HC 61, June 2010, para 1.107; Library Briefing Paper CBP-07812 State Pension triple lock (February 2017)
34 HL Deb, 1 March 2010, c330WA

# 3. Other issues

## 3.1 When there is no reward for deferral

There are circumstances in which, although a person has delayed making their claim, no extra State Pension is earned. This includes periods when where they were in receipt of certain other social security benefits.[35] The policy intention is that:

> […] people should not be rewarded for a period when they have relied upon another social security benefit instead of claiming their state pension.[36]

Details are on Gov.UK - delay (defer) your State Pension and there is a more technical account in DWP's Decision Makers' Guide (see paragraph 75351). The relevant legislation is *Social Security Contributions and Benefits Act 1992*, section 55 and schedule 5 and the *Social Security (Widow's Benefit and Retirement Pension) Regulations 1979 (SI 1979/642).*

An amendment was made to the regulations in 2011 to provide that a person could not earn more State Pension during a period where they had been in receipt of certain means-tested benefits. The Explanatory Memorandum explained that this was needed because it had come to light that because the 'notional income rules' were not being consistently applied, some people were being paid twice for the same period.[37] The regulations were referred to the Social Security Advisory Committee which expressed concern that:

> A legislative solution had had to be used to close an administrative loophole and that under the proposals some customers on low incomes would no longer have the option to benefit from the deferral of their state pension.[38]

However, the Government decided to proceed with the change, saying it would enable "the delivery of the policy intention established by the *Pensions Act 2004."*[39]

## 3.2 Inheriting deferred State Pension

If someone who has deferred their State Pension dies before claiming, their surviving spouse or civil partner may be able to inherit the extra amount earned, subject to certain conditions:

> **If you are married or in a civil partnership If you die before claiming your State Pension**
>
> If you are married or in a civil partnership and you die before claiming your State Pension, your husband, wife or civil partner may qualify for extra State Pension or a taxable lump-sum

35 Gov.UK Deferring your State Pension; *Social Security Contributions and Benefits 1992*, section 55 and schedule 5; *The Social Security (Deferral of Retirement Pensions) Regulations 2005 (SI 2005 No. 453).*

36 Explanatory Memorandum to SI 2011/634, para 7.5

37 Ibid, DWP's Decision Makers' Guide, para 85443-4

38 Explanatory Memorandum to SI 2011/634, para 8.5

39 Ibid para 8.7

> payment because you put off claiming your State Pension. This will apply if the survivor:
>
> • was married to or in a civil partnership with you on the date you died
>
> • has claimed their State Pension, and
>
> • does not remarry, or form a civil partnership, before they reach State Pension age (if they were under State Pension age when you died).
>
> (This includes survivors who reach their State Pension age on or after 6 April 2016.)[40]

However, if they were not married or in a civil partnership, only up to three months State Pension is payable:

> **What if I die and I am not married or in a civil partnership?**
>
> If you are not married or in a civil partnership, and you have put off claiming your State Pension but die before claiming it, someone else may make decisions about your estate. They may be able to claim up to three months of the State Pension you have not claimed, and this could include any extra State Pension you have earned before that. This will be paid to your estate. They cannot choose a lump-sum payment […][41]

The question of whether this amounted to discrimination against unmarried partners was raised in debate on the *Pensions Bill 2003-04.*[42] The then Work and Pensions Minister Baroness Hollis of Heigham responded that it was an established principle that contributory benefits make provision for a surviving spouse:

> In other words, within the framework of the contributory benefits as it is now, it is a long established principle that provision is made for a surviving spouse. While both members of a married couple are still alive, the contributions of one member may entitle the other to a pension if their own contributions are deficient.
>
> The inheritance arrangements that we have produced in the Bill for lump sums are an extension of the current rules governing the provision of survivors' benefits, which explicitly recognises that marriage implies enduring mutual financial support and obligations. The amendment would undo that principle, by requiring a lump sum to be paid to the estate of a deceased deferrer in any case where the conditions of entitlement to it would have been met by the deferrer, regardless of whether they were married or not. As matters and the framework stand, we do not think that the right approach. Obviously, it would treat unmarried couples and single people differently from what is currently the law. It would allow children or any other beneficiary of the deceased, including a neighbour or friend if they saw fit, to benefit.
>
> […] At the moment, we are trying to treat the lump sum in exactly the same way as we are treating increments—no more, no less. A woman would inherit the increments and the lump sum, but no one else would. We do not have sufficient basis to go

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40 DWP, State Pension deferral: if you reached State Pension age before 6 April 2016 and you die, February 2017; DWP Decision Makers' Guide, chapter 74, para 74342ff

41 Ibid

42 HL Deb 18 October 2004 GC152

> beyond that. If we did so, it would open up the whole issue of whether we turned increments into a lump sum to be inheritable, whether there was a dependant's pension for unmarried partners, and so on. One could not draw the line anywhere, except with the existing framework.[43]

The issue was raised again when the legislation to introduce civil partnerships was before Parliament. The Government had decided that surviving civil partners should be treated in the same way as bereaved spouses.[44] The same would not apply to unmarried partners because they had "the option of marriage available to them should they wish it."[45]

In 2014, the then Work and Pensions Minister Lord Freud, explained that the Coalition Government had no plans to change the policy:

> Our law and tax systems recognise inheritance rights and needs of bereaved people only if they have a recognised marriage or civil partnership. This stems from the founding principle of the national insurance system, which is that all rights to benefits derived from another person's contributions are based on the concept of legal marriage and civil partnership. Allowing cohabiting couples to have access to bereavement benefits would significantly increase complexity; and proving cohabitation can be incredibly challenging, not to say an intrusion into claimants' private lives.[46]

## The new State Pension

The State Pension was reformed under the *Pensions Act 2014*, with a new State Pension introduced on 6 April 2016 for people reaching State Pension age from that date. In general, people are expected to qualify for this on the basis of their own National Insurance record, so the special rules, which were part of the old system, allowing people to derive an entitlement based on a late spouse/civil partner's record have been removed (with limited transitional protection).[47]

However, it is still possible to inherit additional amount built up by a late spouse/civil partner who had deferred claiming their State Pension.[48] The Government's rationale for continuing to allow this was that a person reaching State Pension age in the old system:

> […] could already have made the decision to defer – and assumed that their surviving spouse or civil partner would be able to inherit.[49]

The surviving spouse has the same options as they would have done under the old system, provided they satisfied the qualifying conditions.[50]

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43 Ibid GC144
44 Explanatory Memorandum to SI 2005/2053
45 HC Deb 16 July 2003, c 436-7W; HC Deb 13 December 2004 c 849w
46 HL Deb 15 January 2014 c148-9
47 PA 2014, s5 and 11
48 DWP, The single-tier pension: a simple foundation for saving, cm 8528, January 2013, Annex 3
49 DWP, State Pension entitlements derived from a current or former spouse's or civil partner's National Insurance contributions, 2013
50 Ibid

**BRIEFING PAPER**
Number CBP 2868
28 May 2020

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