



BRIEFING PAPER

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Polygamy

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Summary

Polygamy is the practice of having more than one wife at the same time.

This briefing paper deals with when polygamous marriages might be legally recognised; immigration issues; social security benefits and pension entitlement.

Legal recognition

In order to be recognised as legally valid, all marriages which take place in the United Kingdom must be monogamous and must be carried out in accordance with the requirements of the relevant legislation. For a polygamous marriage to be considered valid in the UK, the parties must be domiciled in a country where polygamous marriage is permitted and must have entered into the marriage in a country which permits polygamy.

There is some anecdotal evidence of people entering into polygamous marriage in the UK through religious ceremonies that are not registered by the state and are not recognised under UK law. Calls have been made for all marriages taking place in the UK to be registered.

No formal assessment is made of the number of polygamous households.

Immigration issues

It has been the policy of successive governments to prevent the formation of polygamous households in the UK. A UK resident cannot sponsor a non-EEA national for permission to enter or remain in the UK as their spouse if another person has already been granted such permission, and the marriage has not been dissolved. However, it is possible for all parties to a polygamous marriage to be legally present in the UK. For example, a second spouse may qualify for entry to the UK in a different immigration category, in their own right.

Social security benefits

At present, some benefits can be paid, in certain cases, in respect of more than one spouse, but the allowances that may be paid in respect of additional spouses are lower than those which generally apply to single claimants. Universal Credit (UC) is to replace all existing means-tested benefits and tax credits for families of working age but is not expected to be fully introduced until 2023. The 2010 Government decided that the UC rules will not recognise additional partners in polygamous relationships. This could potentially result in some polygamous households receiving more under UC than under the current benefit and tax credit system.

Pension entitlement

A wife in a polygamous marriage does not generally have the right to a state pension on the basis of her spouse's contributions.

1. The recognition of polygamous marriages

1.1 What is polygamy?

Polygamy is the practice of having more than one wife at the same time. Polyandry is the practice of having more than one husband at the same time.¹

1.2 Polygamous marriages which take place in the UK: not legally valid

In order to be recognised as legally valid, all marriages which take place in the United Kingdom must be monogamous and must be carried out in accordance with the requirements of the Marriage Act 1949 (as amended), related regulations and other relevant Acts.²

[Section 11\(d\) of the Matrimonial Causes Act 1973](#) (as amended) provides that a polygamous marriage entered into after 31 July 1971 is void if either party to the marriage was, at the time, domiciled in England and Wales.³

Bigamy,⁴ rather than polygamy, is a criminal offence. This was confirmed in a written answer in October 2011 by the then Attorney-General:

Polygamy is not recognised as a specific offence by the criminal law. The Crown Prosecution Service (CPS) does not maintain a record of the number of defendants charged with or convicted of bigamy rather than polygamy (which is a specific offence under the criminal law in England and Wales).⁵

The crime of bigamy is committed by someone who, whilst still legally married to a surviving spouse, goes through a ceremony of marriage that purports to be legally binding. A person does not commit bigamy where, for example, they contract an unregistered religious marriage in the UK, without disclosing the existence of a subsisting marriage.⁶

1.3 Polygamous marriages which take place in another country: may be recognised

Polygamous marriages which take place in another country, and are valid there, may be recognised as being valid in the UK.

¹ UK Visas and Immigration guidance, [Polygamous / potential polygamous marriages: SET14, 13 November 2013, SET 14.1](#) [accessed 20 November 2018]

² Immigration Directorate Instructions, Chapter 8 Section FM 1.3, "[Partners Recognition of marriage and divorce](#)", July 2012, [accessed 20 November 2018]

³ The concept of "domicile" is complex and does not have the same meaning as being resident. Anyone seeking to establish where they are domiciled or whether any particular marriage is valid would need specific legal advice.

⁴ Offences Against the Persons Act 1861, section 57

⁵ [HC Deb 17 October 2011 c660W](#)

⁶ Blackstone's Criminal Practice 2018, 2017, General Eds: David Ormerod QC (Hon), David Perry QC, paragraph B2.128

5 Polygamy

The [Immigration Directorate Instructions](#)⁷ provide information about when polygamous marriages may, and may not, be recognised:

Whether a marriage is to be regarded as monogamous or polygamous must initially be determined by **where** the marriage is celebrated.

If the law of the country where the marriage takes place prohibits polygamy, (as English law does) then all marriages celebrated under that law must be monogamous, **regardless of whether a party to such a marriage is permitted to practice polygamy in his country of domicile**. Such a person can nevertheless contract a valid marriage here, as long as he is **not** already married, either here or abroad. Any further marriage contracted in this country would be void as it would be bigamous.

If the country in which the marriage is celebrated permits polygamy, any marriage contracted there by a person whose country of domicile permits him to enter into a polygamous union will be polygamous...

The 1988 Immigration Act does not affect the validity or otherwise of polygamous marriages. They are to be addressed as set out above. The 1988 Act mainly acts to limit the consequential immigration rights of actually polygamous wives.⁸

In a written answer in April 2008, Lord Hunt of Kings Heath, then a junior Justice Minister, set out the conditions and reasons for recognition of a polygamous marriage:

For a polygamous marriage to be considered valid in the UK, the parties must be domiciled in a country where polygamous marriage is permitted, and must have entered into the marriage in that country. Provided the parties follow the necessary requirements under the law of the country in question, the marriage would be recognised in England and Wales. The law is drafted thus because the Government have no desire forcibly to sever relationships that have been lawfully contracted in other jurisdictions. This should not, however, be construed as government approval of polygamous marriage. The Government do not support polygamous marriage and support the law that prohibits parties from contracting polygamous marriages in this jurisdiction.⁹

In October 2011, the Coalition Government also confirmed that polygamous marriages may sometimes be recognised:

Polygamous marriages cannot be legally formed in the UK. Nor is it possible for anyone domiciled in the United Kingdom to enter into a polygamous marriage abroad. Where a polygamous marriage is contracted outside the United Kingdom between parties, neither of whom is domiciled in the United Kingdom, it will be recognised.¹⁰

⁷ The Immigration Directorates' Instructions, available on the Gov.UK website, are internal guidance used by staff when handling visa applications

⁸ Immigration Directorate Instructions, Chapter 8 Section FM 1.3, "[Partners Recognition of marriage and divorce](#)", July 2012, [accessed 20 November 2018]

⁹ [HL Deb 23 April 2008 c306WA](#)

¹⁰ [HC Deb 12 October 2011 c402W](#)

1.4 Unregistered religious marriages

Unregistered religious marriages are not recognised under marriage law in England and Wales. In October 2011, Jonathan Djanogly, then a junior Justice Minister, set out information about the consequences of entering into such a marriage in the UK:

There is some anecdotal evidence of people entering into polygamous marriage in the UK through religious ceremonies that are not registered by the state and are not recognised under UK law. Due to the fact that these marriages are not legally recognised there is no indication of how many such polygamous relationships exist. Any parties to such relationships do not share the same rights as a legally married couple, such as access to financial remedies available on divorce or inheritance rights on the death of one of the spouses, and are treated as cohabitants. The Government have carried out some work with the Muslim community to encourage mosques to undertake the civil aspects of marriage and to raise awareness of the need for marriages to be legally recognised.¹¹

The [Casey Review](#) into integration and opportunity, published in December 2016,¹² found that “the practice of ‘unregistered polygamy’ appears to be more commonplace than might be expected”:

8.45 ...The existence of matchmaking sites like “secondwife.com” and a number of accusations, anecdotes and assertions encountered throughout our engagement imply a common acceptance of polygamy – which impact negatively on women (and their children) who have not had a legal marriage, through denial of inheritance and maintenance rights – even if most people would not wish the situation upon themselves. In situations of polygamy, the power imbalance of an unregistered marriage is compounded by the power imbalance of being one of many spouses – something the United Nations has condemned as particularly “contraven[ing] a woman’s right to equality with men, and [having]... serious emotional and financial consequences for her and her dependents”.[¹³]

8.46. The practice highlights the complexity that we as a state, and as a society, face in challenging issues of cultural difference. In the eyes of the law – provided no bigamy, or encouragement or assistance of bigamy or any other crime is committed – there is nothing illegal with living with a wife and a girlfriend. Condemnation of the practice on the grounds of a spouse’s rights becomes more difficult without a clear legal framework; and falls into a realm of cultural sensitivity which many people are uncomfortable dealing with.¹⁴

The Casey Review found the prevalence of unregistered marriage to be concerning:

¹¹ [HC Deb 12 October 2011 c402W](#)

¹² See also section 1.5 of this paper below

¹³ Footnote to text: “United Nations website: Convention on the elimination of all forms of discrimination against women: General recommendations made by the Committee on the Elimination of Discrimination against Women. Available at: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.html>”

¹⁴ Dame Louise Casey, [The Casey Review A review into opportunity and integration](#), December 2016

The prevalence of unregistered marriage would be concerning in any group, as an indicator that people were not accessing their rights. It is particularly concerning in a group that includes those known to have lower levels of female employment, lower levels of English language and, anecdotally at least, a lack of awareness of other civil rights. The potential for women (in particular) to find themselves in what they believe to be a binding commitment, be economically and socially dependent on their spouse, and yet have no legal marriage status, is worryingly high.¹⁵

1.5 Calls for registration of all marriages taking place in the UK

Private Member's Bill

On 25 May 2016, Baroness Cox (Crossbench) introduced the [Arbitration and Mediation Services \(Equality\) Bill \[HL\]](#), a Private Member's Bill.¹⁶ Information about the Bill is provided on the Bill page on the [Parliament website](#).

Among other things, the Bill would have placed an obligation on public authorities to ensure that those in polygamous households and those who had a religious but not a legally recognised marriage, were made aware that they might be without legal protection.

The Bill had its Second Reading on 27 January 2017,¹⁷ but did not proceed any further.

Policing and Crime Bill

On 16 November 2016, at House of Lords Committee stage of the Policing and Crime Bill (now the Policing and Crime Act 2017), Baroness Cox moved a probing amendment intended to require the celebrant of a religious marriage to ensure that it is also legally registered – with a potential penalty of imprisonment for failing to do so.¹⁸

Baroness Cox spoke of the plight of women in polygamous households:

We know from countless testimonies that many British Muslim women are living in polygamous households. Habiba Jaan's report found that nearly all the women in such marriages said their husband does not support them financially. Some said their husbands had as many as four wives. Some said they were not even aware, when they were married, that there was already another wife. Again, such women are at risk of being ignorant of their vulnerability or duped into believing they are married under the law of the land, only to find upon divorce that they have little or no rights to child custody, finance or property.¹⁹

Replying for the Government, Baroness Chisholm of Owlpen, resisted the amendment, saying that to make it illegal to conduct, or enter into,

¹⁵ Ibid, paragraph 8.43

¹⁶ HL Bill 18

¹⁷ [HL Deb 27 January 2017 cc891-925](#)

¹⁸ [HL Deb 16 November 2016 cc1475-7](#)

¹⁹ [HL Deb 16 November 2016 c1476](#)

religious marriages that were not legally contracted was likely to be “an overly complex solution and one that restricts personal choice”.²⁰

Baroness Chisholm reiterated that polygamous marriages could not be legally contracted in the UK. She said that the Government would consider work on marriage law done by the Law Commission, and an independent review of Sharia, before deciding how to proceed on religious marriages:

The Law Commission has also given initial consideration to the issue of religious marriages that are not legally valid. It published its scoping study in December last year setting out the parameters of a potential review of the law concerning how and where people can marry in England and Wales, following consultation with a wide range of religious organisations and other interested parties. The scoping study concluded that this was one of a number of issues that might be ameliorated through a fairer and more coherent framework for marriage. The Law Commission also considered that offences relating to the celebration of marriage should be reviewed. It would not make sense for the Government to introduce a new criminal offence, such as that proposed by this amendment, without evidence of the scale and nature of the problem and without consideration of how the new offence would fit within existing marriage law.

The Government are carefully considering the Law Commission report and will respond in due course. We will also wish to consider the issue of unregistered religious marriages in light of the findings of the independent sharia review, launched in May by the current Prime Minister. The Government share the noble Baroness’s concerns and take them very seriously indeed. These concerns are central to the independent sharia review and involve the equalities, justice and faith and integration agendas across government.²¹

Baroness Cox withdrew the amendment.

The Government and the Law Commission are currently discussing Terms of Reference for a review of weddings law.²²

Casey Review

In December 2016, Dame Louise Casey published [The Casey Review A review into opportunity and integration](#). The review had been commissioned in 2015 by the then Prime Minister and Home Secretary.

The Review called for the registration of all marriages taking place in the UK:

All marriages, regardless of faith, should be registered so that the union is legally valid under British laws. We have heard strong arguments that the Marriage Act should be reformed to apply to all faiths and that faith institutions must ensure they are properly registered and operate within existing legislation.²³

²⁰ [HL Deb 16 November 2016 cc1480-2](#)

²¹ HL Deb 16 November 2016 c1482

²² Law Commission, [Weddings](#) [accessed 20 November 2018]

²³ Dame Louise Casey, [The Casey Review A review into opportunity and integration](#), December 2016, paragraph 8.50

The Independent Review into the Application of Sharia Law in England and Wales

In May 2016, the then Home Secretary launched an independent review into the application of Sharia law in England and Wales. The review focused on whether and to what extent the application of Sharia law by Sharia councils may be incompatible with the law in England and Wales. The [Independent Review into the application of Sharia Law in England and Wales](#), (the Review) published in February 2018, sets out the findings of that review.

The Review recommended legislative change to ensure that civil marriages are conducted before or at the same time as the Islamic marriage ceremony:

Such legislative changes would be through amendments to the Marriage Act 1949 offences sections, so that the celebrant of any marriage, including Islamic marriages, would face penalties should they fail to ensure the marriage is also civilly registered. This would make it a legal requirement for Muslim couples to civilly register their marriage before or at the same time as their Islamic ceremony.²⁴

The Review stated that this would prohibit what it indicated was the “rare” practice of informal polygamy:

An impact of changing the marriage laws to ensure registration of Muslim marriages would be to prohibit informal polygamy through multiple Islamic marriages. While we have no empirical evidence on the prevalence and community perception of polygamy, the oral evidence the review has heard indicates that it is rare.²⁵

The Government responded to the Review’s recommendations in a [Written Ministerial Statement on 1 February 2018](#),²⁶ and in the [Integrated Communities Strategy green paper](#).²⁷ The Government said that it would “explore the legal and practical challenges of limited reform relating to the law on marriage and religious weddings”.²⁸

²⁴ [The Independent Review into the Application of Sharia Law in England and Wales](#), 1 February 2018, p5

²⁵ Ibid, p17

²⁶ [HCWS442 \[on Faith Practices\]](#), 1 February 2018

²⁷ 14 March 2018

²⁸ [Integrated Communities Strategy green paper](#), 14 March 2018, p58

2. Immigration issues

It has been the policy of successive governments to prevent the formation of polygamous households in the UK.²⁹

In short, a UK resident cannot sponsor a non-EEA national for permission to enter or remain in the UK as their spouse if another person has already been granted such permission, and the marriage has not been dissolved. These restrictions are set out in section 2 of the [Immigration Act 1988](#) and [paragraphs 278 - 280](#) of the Immigration Rules.³⁰

However, it is possible for all parties to a polygamous marriage to be legally present in the UK. For example, a second spouse may qualify for entry to the UK in a different immigration category, in their own right.

Policy guidance for UK Visas and Immigration caseworkers includes more detailed information about how polygamous relationships are considered in the context of immigration applications.³¹

²⁹ Lords Written Question [HL3692](#) [on Entry clearances: married people], 17 December 2014

³⁰ Immigration Rules (HC 395 of 1993-4 as amended)

³¹ UK Visas and Immigration, Immigration Directorate Instructions, Chapter 08 Appendix FM Annex FM 1.4 '[Polygamous and potentially polygamous marriages](#)', July 2012 [accessed 12 November 2018]

3. Polygamy: social security benefits

The basic position is that some benefits can be paid, in certain cases, in respect of more than one spouse. Rules enabling the payment of *some* benefits in respect of some polygamous marriages have been in force for some time; for example, in relation to Income Support, the current rules have applied since 1987.

The following written answer from October 2011 gives an outline of the current situation:

Mr Hollobone: To ask the Secretary of State for Work and Pensions to what extent polygamous families are recognised in the benefits system; which benefits and credits may be claimed by such families; and if he will estimate the (a) total financial cost and (b) number of recipients of payment of such benefits in the latest period for which figures are available. [73631]

Chris Grayling: For income-replacement benefits such as income support, income-based jobseeker's allowance and income-related employment and support allowance, the husband and first wife claim as a couple. Subsequent wives receive an additional sum which is less than the single person rate. These benefits are only payable for wives residing in Great Britain.

Housing benefit and council tax benefit entitlement for polygamous families is limited to those living in one property. There are no special rules for a husband to claim housing benefit for more than one property if his wives live separately.

The claimant may claim benefit/tax credits (depending on claim date) for any child or young person for whom he or a partner of his is responsible and who is a member of the same household.

Contributory benefits make no provision for polygamous marriages. Where a man dies leaving two widows, neither gets bereavement benefit. If at the time of his death he leaves a single widow, she could qualify for bereavement benefit.

A member of a polygamous marriage can claim a contributory or income-related benefit in their own right where they satisfy the relevant conditions of entitlement.

Information regarding the cost and number of polygamous households is not available.

However, the current Government have decided to no longer recognise polygamous marriages and there are measures in the Welfare Reform Bill which will bring this change in policy into effect under universal credit as from 2013.³²

"Income-related" benefits, to which the PQ above refers, are also known "means-tested" benefits, and include:

- Income Support
- income-based Jobseeker's Allowance
- income-related Employment and Support Allowance
- Pension Credit

³² [HC Deb 12 October 2011 c435w](#)

- Housing Benefit

As the PQ indicates, claimants of means-tested benefits *may* be able to receive an addition to their benefit for a second partner, but the allowances that may be paid in respect of additional spouses are lower than those which generally apply to single claimants. So even where a person in a polygamous relationship can claim benefit for a second partner, there may not be much point in doing so since having separate claims for a couple and for other members of the relationship would normally result in *more* benefit being paid. Therefore, as was stressed by Ministers in the Labour Government in responses to PQs, the arrangements within the benefit system ensure there is no advantageous treatment for people in polygamous marriages.³³

Contributory benefits are those which can only be paid where the claimant satisfies National Insurance contribution conditions and include, for example:

- Retirement Pension
- contributory Employment and Support Allowance
- contribution-based Jobseeker's Allowance.
- Bereavement benefits

The position in relation to contributory benefits may be slightly more complicated than might at first appear. There may be some circumstances where a marriage that *appears* polygamous may in practice be monogamous (for example where only one polygamous partner is still living); this may give rise to entitlement to benefit. The current version of the Department for Work and Pensions' *Decision Maker's Guide* gives further details.³⁴

3.1 Labour Government review of social security benefit rules

In response to a PQ in February 2008, the then DWP Minister James Plaskitt said that, in November 2006, officials had been asked to review the social security benefit rules regarding polygamous relationships, and that it had been concluded that the existing arrangements were "the best possible":

Mr. Clappison: To ask the Secretary of State for Work and Pensions what reviews he has conducted of the payment of benefits to claimants in polygamous marriages; what guidelines have been issued in respect of payment of benefits and polygamous marriage; what benefits are payable; what estimate he has made of (a) the number of individuals affected and (b) the cost of payments; what consultations have been carried out, including consultations with other Government departments; and if he will make a statement. [185245]

Mr. Plaskitt: The current rules for paying benefits to people in polygamous marriages have been in place since 1988. In November 2006 we asked officials to look at the social security benefit rules in place for the treatment of valid polygamous

³³ See for example [HC Deb 19 October 2009 c1252w](#)

³⁴ DWP, [Decision Maker's Guide](#), paras 10320-10352 [accessed 13 November 2018]

marriages and consider whether any changes were needed. As part of that process the Department consulted other government departments with an interest, such as the Home Office, Treasury, HM Revenue and Customs and the then Department for Constitutional Affairs. The conclusion was that the current arrangements were the best possible.

Contributory benefits are generally not payable where the claimant has more than one spouse. In the income related benefits, subject to entitlement conditions being met, the claimant is entitled to receive the couple rate of benefit for themselves and one spouse, and the difference between the couple and single rate for each additional spouse.

In Great Britain, polygamy is only recognised as valid in law in circumstances where the marriage ceremony has been performed in a country whose laws permit polygamy and the parties to the marriage were domiciled there at the time. In addition, immigration rules have generally prevented the formation of polygamous households in this country since 1988.

We do not collect data on the number of people in a valid polygamous marriage claiming a social security benefit. Information could be provided only at disproportionate cost.³⁵

The review itself was not published. Asked by Gordon Prentice whether the Government would place a copy of the internal review in the House of Commons Library, Mr Plaskitt said in a written answer in March 2008:

The internal review took the form of a number of submissions to Ministers. Advice to Ministers on the development and formulation of Government policy is not made public.³⁶

3.2 Universal Credit

Universal Credit (UC) is replacing all existing means-tested social security benefits and tax credits for families of working age. UC was first introduced for a small subset of new claimants in certain areas in 2013, and has been gradually “rolled out” to new claimant groups and areas. UC is not expected to be fully introduced until December 2023, when all existing claimants of legacy benefits (the means-tested benefits and tax credits UC is replacing) will have transferred to the new benefit.

The 2010 Government decided that the Universal Credit rules would not recognise additional partners in polygamous relationships. The following written answer from January 2014 sets out the then Government’s position:

Andrew Stephenson: To ask the Secretary of State for Work and Pensions what progress he has made in preventing payments of benefits to people in polygamous relationships. [182601]

Esther McVey: The Government has decided that universal credit, which replaces means-tested benefits and tax credits for working-age people, will not recognise polygamous marriages. Instead, the husband and wife who are party to the earliest marriage that still subsists can make a joint claim for universal credit in the same way as any other couple. Any other adults living

³⁵ [HC Deb 20 February 2008 c756w](#)

³⁶ [HC Deb 12 March 2008 c432w](#)

in the household would each have to claim as a single person on the basis of their own circumstances. This process already happens where a polygamous marriage is not recognised in UK law.³⁷

The Government contends that this is “a simpler approach that is easier to administer and avoids complexity within the structure of the benefit.”³⁸

Treating second and subsequent partners in polygamous relationships as separate claimants could in some situations mean that polygamous households receive more under Universal Credit than they do under the current rules for means-tested benefits and tax credits. This is because, as explained above, the amounts which may be paid in respect of additional spouses are lower than those which generally apply to single claimants.

³⁷ [HC Deb 16 January 2014 c640w](#)

³⁸ [PQ 118475](#), 14 December 2017

4. The state pension and polygamous marriages

4.1 The State Pension

Under the [Pensions Act 2014](#) a new single-tier State Pension was introduced for people reaching State Pension age (SPA) from 6 April 2016. People who had already reached SPA before that date continued to receive their State Pension in line with existing rules.³⁹

A key difference is that the 'old' system includes provision for people who are (or have been) married to claim a State Pension based on the National Insurance (NI) record of their (former) spouse whereas the new system does not (although there is some transitional protection).

The old system

Under the current system, individuals may be entitled to the basic State Pension (BSP) on the basis of their own contribution record, with 30 'qualifying years' needed for a full BSP (£125.95 pw in 2018/19). Gov.UK explains:

The earliest you can get the basic State Pension is when you reach State Pension age.

To get the full basic State Pension you need a total of 30 qualifying years of National Insurance contributions or credits. This means you were either:

- working and paying [National Insurance](#)
- getting [National Insurance Credits](#), for example for unemployment, sickness or as a parent or carer
- paying [voluntary National Insurance contributions](#)

If you have fewer than 30 qualifying years, your basic State Pension will be less than £125.95 per week but you might be able to top up by paying [voluntary National Insurance contributions](#).

To get information about your basic State Pension, contact the [Pension Service](#), or the [International Pension Centre](#) if you live abroad.⁴⁰

In addition, a person who is, or has been, married or in a civil partnership may be able to qualify for, or increase their entitlement to, the BSP based on the NI record of their spouse or civil partner. This can provide a BSP of up to £75.50 pw for a married person and up to £125.95 pw for a widow(er) or person who is divorced in 2018/19.⁴¹

Gov.UK explains:

Married or in a civil partnership

If you're not eligible for a basic State Pension or you're not getting the full amount, you might qualify for a 'top up' to £75.50 per

³⁹ [Pensions Act 2014](#), s1(2)

⁴⁰ [Gov.UK/State Pension/eligibility](#)

⁴¹ For more detail, see DWP, [State Pensions – Your Guide](#), October 2014, pages 24-6.

week through your spouse's or civil partner's National Insurance contributions.

You can get the 'top up' if both of you have reached State Pension age and either:

- your spouse or civil partner reached State Pension age before 6 April 2016 and qualifies for some basic State Pension, even if they haven't claimed it
- your spouse or civil partner reached State Pension age on or after 6 April 2016 and has at least one qualifying year of National Insurance contributions or credits from before 6 April 2016, even if they don't qualify for any new State Pension or they haven't claimed it

If your spouse or civil partner was born before 6 April 1950, you can only get the 'top up' if you're a woman who is married to either:

- a man
- a woman who legally changed their gender from male to female during your marriage

If you qualify for the 'top up' you should get it automatically.

If you're not getting the 'top up' but think you qualify, [contact the Pension Service](#).

You'll get any [Additional State Pension](#) or Graduated Retirement Benefit based on your own contributions in addition to the 'top up'.⁴²

Contributory benefits make no provision for polygamous marriages.⁴³ So, a wife in a polygamous marriage does not generally have the right to a category B pension on the basis of her spouse's contributions. However, the position is more complicated than may at first appear. A woman whose marriage appears polygamous may in practice be monogamous (for example, where only one polygamous partner is still living). DWP's [Decision Maker's Guide](#) explains:

Effect of Polygamous Marriages Regulations on individual benefits

10340 The words marriage, husband, wife and widow describe a matrimonial relationship of a monogamous character and do not include polygamous relationships. For example "wife" cannot be extended to include "wives" and therefore an increase of RP cannot be paid in respect of the wives of a polygamous marriage.

Retirement Pension - Category A on late husband's contributions

10341 A woman widowed under pensionable age may use her late husband's contributions to help her qualify for Cat A RP if

1. she remains a widow up to that age **and**
2. throughout the day on which her husband died her polygamous marriage was in fact monogamous (see DMG 10310).

Note: See DMG Chapter 75 for guidance on pensionable age.

⁴² [Gov.UK/State Pension eligibility](#)

⁴³ [HC Deb 3 December 2012 c651W](#)

Retirement Pension – Category B

10342 If a woman's polygamous marriage is in fact monogamous throughout the day on which the conditions for entitlement to RP on her husband's contributions are satisfied, she is entitled to Cat B RP on her husband's contributions from and including that day. That day means

1. in the case of a woman who is already married at the time she reaches pensionable age, the date on which both she and her husband have reached pensionable age and satisfied the conditions for entitlement to RP
2. in the case of a woman who married after reaching pensionable age, the later of the date of the marriage or the date on which they both satisfy the age and retirement conditions.

Note: See DMG Chapter 75 for guidance on pensionable age.

10343 If a woman's polygamous marriage is not in fact monogamous on the date on which she would have qualified for Cat B RP on her husband's contributions, she may qualify if her polygamous marriage later becomes in fact monogamous. Entitlement will be from and including the first day throughout which the polygamous marriage is in fact monogamous.

10344 Once a woman has qualified for Cat B RP on her husband's contributions because her polygamous marriage was in fact monogamous on a particular day, the marriage is treated as in fact monogamous for any period falling after that day. This applies whether or not it has at all times been or continues to be in fact monogamous. The effect of this is that

1. even if her marriage subsequently becomes actually polygamous, it is not regarded as having come to an end **and**
2. she continues to be entitled to the pension at the married woman's rate until she is widowed or divorced, when the higher rate becomes payable.

10345 A woman is treated as a widow for RP purposes if throughout the day on which her husband died their polygamous marriage was in fact monogamous (see DMG 10310). This means that if she is widowed on or after reaching pensionable age, she can qualify for Cat B RP on her late husband's contributions if the conditions for entitlement are satisfied.

10346 A widow is entitled to Cat B RP on her late husband's contributions when she reaches pensionable age and retires if she

1. was widowed under pensionable age **and**
2. qualified for WP because her polygamous marriage was in fact monogamous throughout the day of her husband's death.

This entitlement is at the same weekly rate as the WP to which she was entitled.⁴⁴

The new State Pension

People reaching State Pension age from 6 April 2016, may be eligible for the new State Pension, which is single tier, combining the old basic and additional State Pensions.⁴⁵

⁴⁴ DWP [Decision Maker's Guide](#), paras 10320-10342

⁴⁵ HM Treasury, [Autumn Statement 2015](#), Cm 9162, November 2015, para 1.134

For people with no National Insurance record before April 2016, thirty-five qualifying years are needed for the full amount (£164.35 in 2018/19). Individuals with fewer qualifying years qualify for a pro-rata amount, provided they satisfy a minimum requirement (at least ten years).⁴⁶ However, transitional arrangements are needed to deal with past records – see Gov.UK – [The new State Pension/how is calculated](#) and [Your State Pension explained](#) (April 2018).

The Government said it had designed the new State Pension on the basis that people would qualify on their own NI record and that there was no longer a rationale for allowing people to “inherit or derive state pension income based on the National Insurance record of their spouse or civil partner.” However, there would be transitional protection to cover a variety of circumstances where it was “right to recognise contributions made prior to the implementation of the single tier pension.”⁴⁷ In particular, there are transitional protection arrangements for married women who in the past elected to pay reduced rate NICs (which did not count towards State Pension entitlement).⁴⁸ In other cases, entitlement will depend on when they and their partner reach SPA.⁴⁹ A widow may also be able to inherit some of their late spouse’s additional State Pension.⁵⁰

There is an overview of the rules in DWP leaflet [Your State Pension explained](#) (April 2018) – section 9 (‘getting or inheriting the State Pension from your husband, wife, civil partner’).

For more on the policy development of the scheme, see Library Note SN-06525 [The new State Pension - background](#) (August 2016), (section 5.2 - special rules for marriage/civil partnerships, divorce and bereavement).

⁴⁶ [Pensions Act 2014](#), s2 and 3

⁴⁷ Ibid; DWP, [The single-tier pension: a simple foundation for saving](#), Cm 8528, January 2013, Annex 3.D

⁴⁸ DWP, [The single-tier pension: a simple foundation for saving](#), January 2013, p95; [Pensions Act 2014, s11 and 12](#); Library Briefing Paper SN01910 [Married women and state pensions](#) (October 2014)

⁴⁹ See DWP, [State Pension entitlements derived from a current or former spouse’s or civil partner’s national insurance contributions](#), March 2013

⁵⁰

5. Number of polygamous marriages

On 26 September 2014, Barry Sheerman tabled a Parliamentary question asking for an estimate of the number of polygamous marriages in England and in Wales. The response, in the form of a letter from the then Director General for the Office for National Statistics, indicated that this information was not available:

I have been asked to reply to your Parliamentary Question asking the Secretary of State for the Home Department, what estimate has been made of i) the number of couples who have polygamous marriages where at least one partner is simultaneously also married to a third party in an unregistered religious ceremony and ii) the number of polygamous marriages in (a) England and (b) Wales. [209506, 209680]

Marriage statistics for England and Wales are based on the details collected in the marriage register when marriages are solemnised. The marriage register only contains details of legally registered marriages and does not contain information to identify polygamous couples or marriages. The information requested is also not available from survey data. Consequently it is not possible for ONS to provide the figures requested.⁵¹

⁵¹ [PQ 209680 \[on polygamy\], 14 October 2014](#)

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