Pension clawback 'poorly understood' and the cause of financial distress, particularly for women, report warns

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Pension clawback has been poorly understood and is the cause of significant financial implications and distress, particularly for women, a new report warns.

Experts have said the appropriateness of the practice should be reviewed and better guidance should be available.

Many retired workers who had long careers are no longer able to take action to address their financial shortfall.

Pension clawback, or state deduction, is where money is deducted from a private pension once the pensioner begins receiving the state pension. As part of clawback, also referred to as state pension integration, in exchange for lower contributions during their working life, the worker's pension from their employer is reduced once they hit state pension age. Employers such as Midland Bank used it to cut the costs of the pension scheme. Many schemes no longer use the system.

Dr. David Barrett and Dr. James Kolaczkowski from the University of Exeter Law School interviewed 67 HSBC (UK) Pension Scheme members and surveyed 2,007 members to gather data on the impact of this practice and to explore communication and equality of treatment.

They found the method of state pension integration used for Midland Bank employees has been poorly understood by and has had significant impact upon many members of the pension scheme, particularly where they have retired before state pension age and subsequently had their occupational pension reduced on reaching state pension age. The impact has been particularly acute for women, with the Equality Act 2010 offering inadequate protection.

Pension clawback is legal and communication requirements have been followed but the report says policymakers should consider the appropriateness of legislation that permits the various methods of state pension integration, in particular if it should still be permitted and whether there is sufficient guidance for pension schemes on how it should be conducted.

The report recommends:

- Policymakers should amend the legislation and develop guidance on communication about pension clawback, particularly that used by Midland Bank, as members are confused and it is likely members in other schemes are equally confused or not even aware of this issue.
- Policymakers should pass legislation supported with guidance to require sponsoring employers and trustees to review their use of pension clawback, and if necessary inform and consult with affected members and provide mitigation for detrimental impact.
- Policymakers should consider the suitability of the equal pay provisions which have not been available to members of the post 1974 Midland Bank pension scheme, despite evidence of disproportionate impact upon women.
- Sponsoring employers and trustees of occupational pension schemes that use any form of state pension integration should conduct a thorough review of this practice to see if it is appropriate going forwards.
- HSBC should meet with affected members or their representatives and explore whether anything could be done to offer lower earning pensions more support, either through an adjustment to the scheme or through alternative means from the employer directly such as providing financial support and access to free financial advice.
- Policymakers should consider the suitability of the equal pay provisions which have not been available to Midland Bank pension members. Particular attention should be paid to whether the equal pay provisions are still fulfilling their purpose and whether the direct and indirect discrimination provisions should

be made available instead or in addition to the equal pay provisions.

- Policymakers should require sponsoring employers and trustees to review the use of pension clawback to see if it is appropriate, and if necessary inform and consult with affected members and provide mitigation for detrimental impact. This would ideally take the form of amending relevant legislation and developing guidance.

Researchers were assisted by students Rebecca Portas, Chiara Ricchi and Gregory Barca.

Dr. Barrett said, "Members had very little understanding of state pension integration, in particular what it is, how it works and why it exists. This lack of understanding has led participants to seek further explanation and enabled the clearer and louder discourses and narratives of the Midland Clawback Campaign to prevail over those provided by the bank."

"A particular cause of this lack of understanding is the term 'state deduction' which is used by the bank to refer to state pension integration and which participants have largely interpreted to mean a deduction by the state rather than by the scheme."

"There were many negative feelings around state pension integration from members, of which many stem from the frustration of feeling that they have not had their concerns adequately listened to by their employer and the particularly strong impact that it has on women."

Dr. Kolaczkowski said, "State pension integration was originally permitted to reduce the increased burden of contributing to both an occupational pension and the national insurance scheme. The social, political and economic environment has significantly changed since 1948 but the ability to apply state pension integration has not. It is therefore a legitimate question for policymakers to consider whether the legal framework surrounding state pension integration is adequate."

Provided by University of Exeter

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