To Name of MP

**HSBC Pension Scandal**

Your Name and Address

I am asking for your support with trying to obtain the full HSBC pension that I had been promised when I joined HSBC UK (formerly Midland Bank) in (insert year). I worked for the bank for (XX years). I was automatically included in their Defined Benefit Scheme.

My understanding of the pension scheme and what I was told when I joined, was that I would receive a two thirds final salary should I continue to work for forty years, or pro rata for the number of years I was employed. What I was not told and had no written information about until much later, was that when I reached State Pension Age, my pension would be reduced based solely on a calculation of the number of years I was employed linked to State Pension. This Clawback deduction has no alignment to salary earned. I thought my pension would be £xxxx but I now find my pension will be (£xxx) after the bank has clawed back (£xxx). This is both ludicrous and unfair.

I receive the pension based on salary earned and yet Clawback (or State Deduction as HSBC choose to call it), is based on length of service and the State Pension, payable 12 months before you retire or leave the Bank. This was not advised to me until only a few years ago. I had no opportunity to plan for this shortfall.

Ian Stuart, CEO of HSBC UK delivered a speech in 2017, shortly after he took office. He stated that pensions had been clearly advised to everyone, refused to change anything and will continue to apply Clawback. HSBC suggested affected members approach a charity for help. That is outrageous.

I have joined an action group, Midland Clawback Campaign, who have attempted to negotiate with the bank. However, for seven years, they have continually denied all requests for a meeting. Eventually, the CEO agreed to a meeting with the chair of the campaign group, and some of his first words were “there will be no changes.” He declined to comment on the pension fund surplus, non existent communication and the findings of an independent review by senior law lecturers from Exeter University. The campaign group have managed to have a resolution included for each of the banks last five AGM’s. Questions raised within the meeting have resulted in directors being unable to answer the hard questions, but simply brushing the concerns aside.

Since early 2018, HSBC have issued a ‘standard response’ to all those making enquiries. It contains sufficient half-truth’s and spin to deter most from enquiring further. It does not answer the core issues being asked. **Please do not get deflected**. Keep in mind the damage being inflicted on HSBC former employees from this outdated law.

The campaign has a website that I would encourage you to view at [www.midlandclawbackcampaign.co.uk](http://www.midlandclawbackcampaign.co.uk) and I can ask any of the committee to provide further details, although an appendix is included with more information.

This is why I need you, as my MP to be bold enough to challenge HSBC to remove or reduce the burden it is placing on their long serving, hardworking pensioners.

Thank you

Yours sincerely

**Appendix – additional information**

The State Pension and National Insurance were introduced in 1948. To partly offset the NI cost for employers providing a work pension, those employers, including the Public Service schemes, were allowed to reduce the work pension by part of the State Pension and therefore pay less into the works scheme. These ‘national insurance modification’ rules were abolished from the Civil Service and other public bodies from 1980. Description of this process is sometimes referred to as “pension integration,“ clawback or bridging pension. Many Private sector occupational schemes that included such arrangements followed the Government actions and also cancelled them, or capped them to make them fairer.

Midland Bank (now HSBC) only chose to apply this modification from 1st January 1975, when many were doing the opposite. And instead of using the standard phrases instead chose to call it State Deduction, a misleading phrase which has nothing to do with the State.

The phrase State Deduction was introduced by Midland Bank at about the same time that these schemes were contracted out of the new SERPs, or State Pension top up, and many staff thought that State Deduction referred to this contracting out.

HSBC states that making changes to ‘clawback’ would be unfair to the other 22 staff pension schemes it supports, none of which have a Clawback clause, and the Post 1974 Midland scheme has the most penal Clawback formula and the lowest pension accrual rate.

The formula applied is based only on the number of years of employment, and not linked to salary. The deduction is 1/80th for each year (maximum 40) of pensionable service, of the basic state pension paid to a single person in the 52 weeks before retirement. Thus, a senior manager retiring on £100,000 a year might suffer Clawback of £2,500 a year; whereas a junior cashier with the same service period might retire on a pension of £10,000 a year but still suffer Clawback of £2,500 a year.

The bank says there are 50,000 scheme members impacted by Clawback. A campaign group has been formed by some affected staff, although neither the bank nor pension trustees will provide contact details for these people nor forward campaign material. By word of mouth the campaign group now has almost 10,000 members. The aim is to have clawback removed from the HSBC UK Post 1974 Midland Bank DBS but there is a broader wish to have Clawback removed from all pension schemes.

The HSBC Defined Benefit Pension scheme is in excess, after liabilities, to the tune of £3.65 billion

HSBC advise it would cost £450 million to remove this aspect, and that it would need to be retrospective. The campaign group are not seeking any retrospective change, merely to ease the current burden, particularly for the lowest paid. HSBC have declined to advise how no retrospective change would impact figures.

Midland Bank had a leaflet printed for issue to all new recruits as part of their ‘induction’ week. **But these were not automatically provided.** A letter to Department of Work and Pensions, DWP, January 2018, falsely stated the message was effectively communicated since every member of staff received a leaflet. Improved communication only commenced from the late 1980’s. We are told that the actual printing of the leaflet, not its distribution, met the legal requirements for communication at the time, but would not suffice nowadays.

This lack of awareness meant that throughout the 1970’s and 1980’s, existing staff continued to talk of a 2/3 final salary scheme to new recruits, a point boldly highlighted in the staff handbooks. This was also used to justify pay levels and pay increases below market rates.

The calculation used for clawback, whilst reasonable in 1948, has become punitive to the lowest paid given increases in State Pension and a more enlightened society. In 1948, State Pension was £1 and 6 shillings per week. Today, State Pension for a single person is £221.20 per week. In 1975 when the Midland Bank implemented this law into their scheme, State Pension was £10.00

As noted above, the Clawback impacts the lowest paid the most. Due to the employment practices of the 1970s, 1980s and even 1990s, it is mainly women that are adversely affected.

The pension administrators have declined to provide any statistical data for members of this scheme, including the division between male and female.

The campaign group have obtained pension details from 547 its members. A table of those worst impacted, almost 40%, is as follows

|  |  |  |
| --- | --- | --- |
|  | Number of Pensioners Affected | Percentages |
| % Pension Clawed Back | Total | Female | Male | Female | Male |
| 30%+ | 5 | 5 | 0 | 100.0% | 0.0% |
| 25%-30% | 12 | 11 | 1 | 91.7% | 8.3% |
| 20%-25% | 34 | 31 | 3 | 91.2% | 8.8% |
| 15%-20% | 147 | 125 | 22 | 85.0% | 15.0% |
| Totals | 198 | 172 | 26 | 86.9% | 13.1% |

HSBC advise that the administrators claim this process of Clawback is common throughout the pension industry, but will not quantify how many or who practice this. House of Commons Library reports reveal decreasing numbers of schemes applying Clawback but there is no national data available. That is perhaps something a Select Committee could investigate and provide.

Senior lecturers from Exeter University Law School have undertaken independent research into this pension scheme. The first paper they have published, “State Pension Integration: Expectations and Equality.” Comments that “As a pension constitutes pay and there are special provisions in the Equality Act 2010 for equal pay in relation to sex it is not possible to bring an indirect discrimination claim.”

Despite this, they conclude that interviews with affected pensioners show that compounding inequality (many resulting from bank practices) has had a particularly adverse effect on women in relation to their occupational pension(s). Indeed, their summary says: *‘The Equality and Human Rights Commission has advised that indirect discrimination laws will not apply to Clawback in the Post 1974 Midland Section, however, pension scheme members have been significantly affected and researchers in the Law School at the University of Exeter recommend that HSBC and policy makers review the adverse impact of Clawback’.*

The campaign group approached the Equalities & Human Rights Commission. Whilst initially commenting that the practice seemed unfair, their interpretation of information provided by HSBC’s legal advisers confirmed that Clawback was legal. Given that, a full agenda and limited resources, they declined to take the matter further for the time being.

The Department for Work and Pensions was also contacted by pensioners, or their Members of Parliament writing on their behalf. Their standard response are extracts taken from HSBC’s ‘Standard Response’ and do not address the issue. They state that ‘Such pension arrangements are not a requirement of Department for Work and Pensions legislation. It would not be right to compel schemes to withdraw this integration arrangement. That would amount to a retrospective change imposing significant additional unplanned costs. Pension scheme rules on the calculation of benefits are many and varied, and must remain a matter for employers and scheme trustees to decide ([PQ 112545](http://www.parliament.uk/written-questions-answers-statements/written-question/commons/2017-11-13/112545)).”

**“Clawback is morally offensive because it is unfair”.** This is a statement made in the House of Commons (Linda Perham MP - Hansard 16 Oct 2001).

An [Early Day Motion](http://www.parliament.uk/edm/2017-19/561) in the name of Jim Cunningham in the 2017-19 Parliament, which got 42 signatures, called on the Government to “abolish pension clawback schemes and to ensure that older people have security and dignity in retirement.”

Groups campaigning on this issue include the [Midland Bank Clawback Campaign](https://www.midlandclawbackcampaign.co.uk/objectives/) and [Unite the union](https://unitetheunion.org/news-events/news/2019/april/hsbc-agm-faces-demonstration-as-workers-demand-pension-justice/). An All Party Parliamentary Group on [Pension Clawback](https://publications.parliament.uk/pa/cm/cmallparty/190911/pension-clawback.htm) had been set up to campaign for HSBC to remove clawback from its post-1974 Defined Benefit Pension Scheme. It was also working to raise awareness of pension clawback more generally, especially in cases where it has been poorly communicated, and to highlight its discriminatory impacts.

Cancelling clawback would result in a reduction to the pension fund surplus, but would still remain healthily in profit. It should have no impact HSBC profits, or share price. Personally I feel the bank is saying no is they do not wish to lose face.

HSBC are regularly penalised for not following rules. In 2021, they were fined £64 million. In 2023 £57 million, and 2024 to date, £6.2 million. This latest fine, brought by the FCA, identified *‘HSBC failed to properly consider people’s circumstances …’ ‘The failings were caused by deficiencies in HSBC’s policies and procedures and the training of their staff, as well as inadequate measures to identify and address instances of unfair customer treatment.’*

There is concern about the country’s finances. However, the current outdated law allows the bank to continue withholding funds to add to their own coffers. Clawback is deducted from the gross pension and the residual net amount is then taxed. Thus, the Government are losing millions in tax every year. As a rough estimate, 50000 x £100 per pensioner, equals £5 million per month. The government loses 20% of this amount, i.e. £1 million a month in income tax. It might be more or less, but either way it is a great loss to both the Pensioners and the Exchequer

HSBC have used their in-house legal team and top London firm Sacker and Partners LLP to assist in pushing back on any challenges. The campaign group cannot afford to also follow a legal route. Regulators simply refer to the practice being legal and will take no action. So, we need HSBC to reposition itself and ease the burden that it has imposed on 50,000 loyal employees. This as a first step to consider other groups who are suffering due to indirect discrimination. As a starting point, pressure on HSBC and an investigation of this issue by Select Committees would seem appropriate.