



Home Office

Firefighters' Pension Scheme

Consultation on amendments to benefits in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme 2006

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1. Scope of the consultation

Topic of this consultation:	<p>Amendments to :</p> <ul style="list-style-type: none"> - the Firemen’s Pension Scheme Order 1992 (S.I. 1992 No. 129) which sets out the Firefighters’ Pension Scheme 1992 (“the 1992 Fire Scheme”); - the Firefighters’ Compensation Scheme (England) Order 2006 (S.I. 2006 No. 1811) which sets out the Firefighters’ Compensation Scheme 2006 (“the Compensation Scheme”).
Scope of this consultation:	<p>This consultation seeks responses from interested parties on proposals detailed in the attached draft regulations.</p> <p>In particular, the consultation covers:</p> <ul style="list-style-type: none"> • changes to survivors’ benefit arrangements in the 1992 fire scheme and the compensation scheme • a minor unrelated correction to the 1992 fire scheme.
Geographical scope:	<p>This consultation applies to England only.</p>
Impact Assessment:	<p>Since there is no impact on private businesses, the Home Office does not intend to produce an Impact Assessment in relation to this consultation.</p>
Equality Policy:	<p>Equality issues have been given proper consideration, as indicated at paragraph 3.3 below.</p>

Basic information

To:	<p>This consultation is primarily aimed at fire and rescue authorities, members of the firefighters’ pension schemes, and key employer and employee representative bodies.</p>
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Body responsible for the consultation:	The Home Office (“the Department”).
Duration:	This consultation will run for six weeks, from 18 December 2018 to 29 January 2019.
Enquiries:	<p>For any enquiries, please contact Philip Perry : philip.perry@homeoffice.gsi.gov.uk (020 7035 3447)</p> <p>If you have a complaint or comment about the Home Office’s approach to this consultation, you should contact the Home Office Consultation Coordinator at the e-mail address: HOConsultations@homeoffice.gsi.gov.uk</p> <p>Alternatively you can write to them at: Consultation Co-ordinator Better Regulation Unit Home Office 3rd Floor, Peel Building 2 Marsham Street London SW1P 4DF</p>
How to respond:	<p>This is a statutory consultation on draft regulations, which are attached at Annex A. Please respond by email to: philip.perry@homeoffice.gsi.gov.uk</p> <p>Alternatively, please send postal responses to: Philip Perry, PWPU, 6th Floor Fry Building 2 Marsham Street London SW1P 4DF</p> <p>Responses should be received by 29 January 2019.</p>
Confidentiality and data protection	<p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Regulations 2004).</p> <p>If you want the information that you provide to be treated</p>

	<p>as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.</p> <p>The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.</p>
<p>Additional ways to become involved:</p>	<p>During the consultation period, the Department is willing to consider requests for meetings from key interest groups, including fire and rescue authorities and relevant unions.</p>
<p>Compliance with the Consultation Principles guidance:</p>	<p>The consultation complies with the Consultation Principles guidance.</p>

Background

Getting to this stage:	<p>In the event of a member's death, the firefighters' pension schemes provide for the payment of certain benefits and awards to a member's spouse or partner ('survivors' benefits'), but as regards qualification for benefit, there are different regulations according to which particular pension scheme the member belonged.</p> <p>A recent Supreme Court case relating to the entitlements of a public service pension scheme member's partner has led the Government to give fresh consideration to this matter for all public service pension schemes, including those for firefighters.</p> <p>In addition, an unrelated minor amendment is required to ensure that one particular aspect of the 1992 Fire scheme works as originally intended.</p> <p>This consultation seeks the views of interested parties on draft legislation to enact these changes.</p>
Previous engagement:	None.

2. The case for change

- 2.1 Following the introduction of registered civil partnerships in 2004, public service pension schemes provided for survivors of registered civil partnerships to be treated in the same way as widowers of opposite sex marriages. Changes were introduced that replicated the way in which widowers' benefits were introduced into the firefighters' pension schemes, which at that time provided that only membership of a pension scheme from April 1988 counted for the purposes of calculating a survivor's pension. The same approach was later taken with regard to survivors of same-sex marriages.
- 2.2 On 12 July 2017, the Supreme Court ruled in the Walker v Innospec case that Mr Walker's male spouse was entitled to a pension calculated on all the years of his service with Innospec, provided that at the time of Mr Walker's death they remained married. As a result of the ruling, where survivor benefit is limited in the firefighters' pension scheme so that only membership since April 1988 is taken into account, that limit is now being abolished.
- 2.3 The Department is also taking this opportunity to continue its work of ensuring that all of the firefighter pension schemes work as intended. A minor amendment to the 1992 Fire scheme is therefore being taken forward, as detailed in Section 3.

3. Proposals for consultation

Survivors' Benefits

3.1 Of the three firefighter's pension schemes, only the 1992 scheme requires amendment, as only this scheme has the 1988 limit on membership to be taken into account. Some of the wording in the 1992 Order therefore requires amendment as follows :

- (a) Part C - to remove the 1988 limit on service to be taken into account in respect of civil partners
- (b) Part J - equalising guaranteed minimum pensions
- (c) Schedule 1, Part 3. Part 3 disapplies the part of the Marriage (Same Sex Couples) Act 2013 that effectively equates same-sex marriage with opposite-sex marriage. The amendment removes that disapplication.
- (d) Schedule 3, Part 3 – calculation of survivor benefit
- (e) Schedule 3, Part 4 – calculation of survivor benefit in respect of post-retirement marriage

3.2 A number of rules in the compensation scheme also need to be amended for the same reason :

- (a) Part 3, rules 1 and 3 - to remove the 1988 limit on service to be taken into account in respect of civil partners in respect of special awards
- (b) Part 3, rule 4 – limitation of award where spouse or civil partner is living apart at time of death

3.3 The Home Office is satisfied that it has discharged its equality responsibilities in making this amendment. In common with other public sector schemes being reformed, the amendments are being backdated to the dates that civil partnerships and same-sex marriages were introduced, respectively 5 December 2005 and 13 March 2014. However, this does not mean that only scheme membership from those dates will be taken into account – as stated above, the intention of the amendments is that there should no longer be any limit on service.

Entitlement to two pensions

3.4 Members of the final-salary pension schemes are permitted to split their pension in the eventuality of a reduction in salary, – ie to become entitled to two pensions - so as to preserve the value of pension which has already been accrued on the higher salary. Rule B5A in the 1992 Order sets out a formula by which these two pensions should be calculated. The intention of paragraph (2) in B5A is clearly to indicate that if, after such calculations have been made, it becomes clear that the member would, after all, be better off with a conventional single pension calculated in the normal way, then that is the pension to which they should be entitled. However, the wording incorrectly states that this should happen if the total of the two pensions “exceeds” that of the single pension. The current amendment makes it clear that the two pensions should not be awarded if their total “is lower than” the single pension.

4. Consultation Questions

Question 1

To what extent do you agree that the Department's draft regulations achieve the aim of equalising survivor benefit for survivors from civil partnerships and same-sex marriages?

Question 2

Can you foresee any challenges to the administration of the pension schemes with regard to the proposed draft regulations?

Question 3

Are you aware of any equality issues not covered here ?