



Home Office

## **Firefighters' Pension Schemes**

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

Consultation response

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# The consultation

1.1 This paper sets out the Government's response to the consultation which ran from 18 December 2018 to 29 January 2019, dealing with amendments to the provisions for survivors' benefit in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme 2006 and with an unrelated amendment to the Firefighters' Pension Scheme 1992. It outlines the main representations made by respondents under each consultation question and attempts to capture the range of views expressed.

1.2 The related draft statutory instrument set out :

- amendments to the Firefighters' Pension Scheme 1992 ("the 1992 scheme"), which had included limits in respect of survivor benefit to be paid to civil partners and same-sex spouses;
- equivalent amendments to the Firefighters' Compensation Scheme 2006 ("the compensation scheme");
- equivalent amendments and other unrelated amendments to the Police Pension Scheme,
- minor unrelated amendments to the 1992 scheme.

This paper deals only with matters related to firefighters' pension and compensation.

## Background to the consultation

1.3 Following the introduction of registered civil partnerships in 2004, the Government's overarching policy was that public service pension schemes should provide for survivors of registered civil partnerships to be treated in the same way as widowers of opposite sex marriages. Changes were introduced in the firefighters' scheme so that only service from April 1988 counted for the purposes of calculating a survivor's pension. 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.

1.4 The Department is also taking this opportunity to continue its work of ensuring that all of the firefighters' pension schemes work as intended. A minor amendment to the 1992 scheme was therefore proposed, as detailed in paragraph 1.7.

## Summary of proposals

- 1.5 The consultation, published on 18 December 2018, sought responses on the proposals set out in a paper and in a draft statutory instrument.
- 1.6 The policy aim was that the entitlement to survivor benefit for civil partners and same-sex spouses should be equalised with that for widows, both in the 1992 scheme and the compensation scheme. There is no need for such action to be taken with regard to the 2006 and 2015 firefighters' pension schemes, as survivor benefit in those schemes is already equal.
- 1.7 The other provisions in the statutory instrument relate to the facility for members of the 1992 scheme to be permitted to split their pension in the eventuality of a reduction in salary. 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.
- 1.8 As indicated at paragraph 3.7, one respondent to the consultation suggested two further minor amendments in order to help ensure that the split pension provisions operate correctly. These suggestions have been accepted.
- 1.9 The consultation sought respondents' views on the proposals and, where possible, whether the draft regulations reflected the policy set out. In particular, interested parties were asked to address the following 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 ?

## Summary of responses received

2.1 Nine responses to the consultation were received in total. A full list of respondents is reproduced below:

1	<b>Cleveland Fire Brigade</b>
2	<b>Shropshire Fire Service</b>
3	<b>Royal Berkshire Fire Authority</b>
4	<b>West Midlands Fire Service</b>
5	<b>Hampshire Fire Service</b>
6	<b>Local Government Association (LGA)</b>
7	<b>North Yorkshire Fire Service</b>
8	<b>West Sussex Fire Service</b>
9	<b>Eunice Heaney (Independent Consultant via LGA)</b>

# The responses in detail, including the Government's response

## **Q1. 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?**

- 3.1 The Home Office received eight responses to this question.
- 3.2 All of the responses agreed that the Department's aims had been achieved.
- 3.3 One response argued that the Department should equalise widowers' survivor benefits with those for widows. However, the Department believes that it is accepted that, for all practical purposes, widows' and widowers' benefits are already equal in the firefighters' pension schemes.

## **Q2. Can you foresee any challenges to the administration of the pension schemes with regard to the proposed draft regulations?**

- 3.4 Eight responses were received.
- 3.5 Four responses indicated that there should be no such challenges involving scheme administration, but three indicated that there would be challenges involved in reviewing individual cases in order to check whether survivor benefit needed to be increased to reflect pre-1988 service. The Department accepts that there may be a short-term increase in administrative work, but considers that this is necessary in order to achieve the aims of the reform. It also noted one respondent's view that in future it should be more straightforward to administer survivor benefit, in that all benefit should be treated equally and reflect a member's full service.
- 3.6 One respondent suggested that additional definitions should be added to the regulations in order to help ensure the correct reading of the survivor benefit regulations. However, the Department does not accept there is any ambiguity in the regulations in this regard and the terms used are all defined in law as necessary.

- 3.7 One respondent suggested two further minor amendments to Rule B5A on split pension in order to correct cross-references. Both of these suggestions are now reflected in the made instrument.

### **Q3. Are you aware of any equality issues not covered here?**

- 3.8 There were eight responses to this question, seven of which said that they were not aware of any equality issues not covered in the consultation document. One response argued that the Department should also make provision for cohabiting partners in the 1992 scheme. However, that is not an area which has been covered in the consultation, nor can such benefits be provided for in the current cost parameters of the scheme.
- 3.9 The Home Office is accordingly 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.