

Cohabiting Partner – Reaction to Brewster case

You may be aware of a recent legal challenge involving Ms Denise Brewster and the Northern Ireland Local Government Officers Superannuation Committee. Ms Brewster was denied a Local Government survivors pension because at the time of her partner's death they were not married and although cohabiting, had not completed a cohabiting partner's nomination form. Ms Brewster took her appeal to the Supreme Court and won her case on the grounds of sexual discrimination as the Local Government Pension Scheme did not impose the same condition for married couples.

Although the case related to a member of the Northern Ireland Local Government Pension Scheme the outcome does impact on other pension schemes who impose similar conditions. The 2006 firefighters' pension scheme currently require a cohabiting partner to be nominated in order to be eligible for benefits. The Home Office have confirmed that, in light of the ruling, forces may wish to rely on overriding Human Rights legislation to disapply this requirement and pay benefits where a cohabiting partner survives a member and would otherwise qualify for a pension, but for the 'nomination'.

Although there is now no strict requirement for nomination, we do recommend that members complete our 'nomination' form so we can quickly identify someone who might be due a pension following the death of a scheme member. The form ensures they are aware of the qualifying conditions that still need to be met for a pension to be paid as well as reminding them that keeping supporting documentation for a cohabiting partner's claim can greatly assist the payment process.

As a result, it is our intention to continue to make the cohabiting partner pension form available on our member website at www.myownpension.co.uk, but we will no longer issue hard copies. We will of course direct officers to the document on the website where we receive any enquiries. You may also want to consider this approach where you provide this as part of any starter documentation to your new recruits as it will retain consistency and reduce your printing costs.

At the point that benefits are payable to a cohabiting partner, we will refer each case to the Fire & rescue authority for a decision to be made.

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