



BRIEFING PAPER

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Occupational pensions - survivors' benefits for cohabitants

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Summary

The pension tax legislation allows schemes to provide a survivor pension to a person who was not married or a civil partner of the scheme member but was financially dependent on them.

Until reforms introduced in the mid-2000s, public service schemes did not provide survivor pensions for unmarried partners. This was in contrast to private sector schemes, where the trustees often had discretion to provide such benefits. Changes in lifestyles led to pressure for schemes to be modernised and in the 1998 pensions Green Paper, the Labour Government said it would extend eligibility survivors' pensions to unmarried partners if members were prepared to meet the additional costs. Subsequent reforms to all the main schemes included improvements to survivors' benefits, such as the introduction of pension for unmarried partners and allowing pensions to be paid for life rather than removed on remarriage or cohabitation. These improvements were not made retrospective – scheme members either had to have service after the date of the reform or opt to be a member of the post-reform scheme.

When pensions for unmarried partners were introduced, most public service schemes required a nomination to have been made. Although the local government and firefighters schemes have now removed this requirement, it remains part of the rules of the schemes for civil servants, police, NHS staff and teachers.

In February 2017, on an application by Denise Brewster for [judicial review relating to the local government scheme in Northern Ireland](#), the Supreme Court held that the nomination requirement should be disapplied and that she should be entitled to a survivor's pension under the scheme. HM Treasury subsequently wrote to public pension schemes saying that "cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member's death in eligible cases, regardless of when a claim is made." ([PQ 105675, 16 October 2017](#))

For a discussion of the legal position of cohabitants more generally, see Library Standard Note SN 3372 "[Common law marriage" and cohabitation](#)" (June 2018). The pension rights of civil partners and same sex married couples is discussed in Library Briefing Paper [CBP-03035](#) (April 2018).

The legal framework

Schemes used to contract out of the additional State Pension are subject to certain legal requirements to provide survivors' benefits for widow(ers) and civil partners.¹

Beyond this, pension tax legislation enables survivors' pension benefits to be paid to a surviving adult dependant, which includes an unmarried partner who was financially (inter)dependent.

The current pension tax regime was introduced under the *Finance Act 2004*. It was designed as a simplification - replacing eight different pension tax regimes with a single set of rules. The government explained that the reforms would include "a consistent set of rules about what kinds of benefits pension schemes may pay on the death of a member."²

Pension death benefits can be paid to a 'dependant', ie:

- 1 a person married to or a civil partner of the member;
- 2 a child of the member who has not reached the age of 23 or was dependant on the member at the time of death because of physical or mental impairment; or
- 3 an unmarried partner who was financially (inter)dependent on the member.³

HMRC's Pension Tax Manual explains:

A person who was not married to the member or was not in a civil partnership with the member at the date of the member's death and is not a child of the member is a dependant of the member if, in the opinion of the scheme administrator, at the date of the member's death the person was:

- financially dependent on the member,
- the person's financial relationship with the member was one of mutual dependence (the scheme rules will set out the criteria the scheme will use to determine mutual dependency), or
- the person was dependent on the member because of physical or mental impairment.⁴

The type of pension death benefit that may be paid include:

- **a dependant's scheme pension.** This pension death benefit is payable from both a defined benefits arrangement and a money purchase arrangement - see [PTM072100](#)

¹ State Earnings Related Pension Scheme from 1978 to April 2002; and the State Second Pension from April 2002 onwards; For more detail, see SN 4822 [Contracting out of the State Second Pension](#)

² HM Treasury and Inland Revenue, [Simplifying the taxation of pensions: increasing choice and flexibility for all](#), December 2002, para 5.29

³ *FA 2004*, Sch 28 (15); [Pension Tax Manual - glossary](#)

⁴ [HMRC Pension Tax Manual - glossary](#)

- **a beneficiary's annuity.** This pension death benefit is payable from a money purchase arrangement only - see [PTM072200](#)
- **a dependants' drawdown pension.** This pension death benefit is payable from a money purchase arrangement only. The dependant must have become entitled to it and have designated sums or assets to a dependant's drawdown pension fund before 6 April 2015. The drawdown pension can take the form of either dependants' income withdrawal or a dependants' short-term annuity or a combination of the two - see [PTM072300](#)
- **a beneficiary's flexi-access drawdown pension.** This pension death benefit is payable from 6 April 2015 and from a money purchase arrangement only. The beneficiary must designate sums or assets to a flexi-access drawdown fund for their own benefit. The pension can take the form of either beneficiary's income withdrawal or a beneficiary's short-term annuity or a combination of the two - see [PTM072400](#).⁵

1.2 What schemes provide

Pension tax legislation provides for the tax treatment of payments to and from a pension scheme – thereby encouraging certain types of payments and discouraging others through the application of 'unauthorised payments' tax changes. Within this framework, what payments will actually be made will depend on scheme rules.

In 2016, most (83%) private sector defined benefit schemes provided survivors' benefits to a 'nominated dependant' of the scheme member at the discretion of the trustees, with two per cent providing them as of right. For spouses and civil partners the position is different – 93% are entitled to survivors' pensions as of right and only 6% at the trustees' discretion. The reason for the difference in treatment is probably that HMRC rules "require scheme trustees to take a view on the level of financial dependence of an adult dependent other than the spouse."⁶

Schemes offering benefits payable on death after retirement, UK, 2015

As a proportion of pensions in payment in private sector defined benefit occupational pension schemes

	As of right under scheme rules	At trustees' discretion	Benefit not payable
Lump sum or pension guarantee	74%	21%	5%
Pension to a surviving spouse/civil partner	93%	6%	1%
Pension to surviving children	72%	19%	9%
Pension to other nominated person	2%	83%	15%

Source [ONS Occupational Pensions Scheme Survey 2015, Table 16](#)

As discussed in [section 2 below](#), the right to a survivor's benefit for unmarried partners was introduced in public service pension schemes as part of reforms in the mid-2000s. It was not introduced with

⁵ [HMRC Pensions Tax Manual. Death benefits: essential principles](#)

⁶ ONS, [Occupational Pension Schemes Survey 2015](#), September 2016; ONS, [Occupational Pension Schemes Survey 2010](#), October 2011;

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retrospective effect - the scheme member generally needed to have service after the date of change or to be a member of the new scheme. This is in line with the long-standing principle that improvements to public service pension schemes are not applied retrospectively, largely on grounds of cost. In 1991, the then Armed Forces Minister Archie Hamilton explained:

There are two important and allied points. First, entitlements under the scheme are, for any individual and through him his dependants, derived from the rules of the scheme which were in force at the date of his retirement. Secondly, when rules are changed, those changes do not apply to those who are no longer serving at the time when they are brought into effect [...] If we had applied every improvement retrospectively, the costs involved would have been significantly greater and it is unlikely that we would have been able to reach the standard which exists today.⁷

1.3 Legal challenge

In February 2017, the Supreme Court handed down its judgement on the [application for judicial review by Denise Brewster \(Northern Ireland\)](#).⁸ The case related to the Local Government Pension Scheme in Northern Ireland, which included a rule that unmarried cohabiting partners had to be nominated by their pension scheme member partner in order to be eligible for a survivor's pension. The Court found that the requirement should be disapplied and that Ms Brewster was entitled to receive a survivor's pension under the scheme. Its press release said:

This case concerns a requirement in the *Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2009* (the "2009 Regulations") that unmarried cohabiting partners be nominated by their pension scheme member partner in order to be eligible for a survivor's pension. The survivor must also show that he or she has been a cohabitant for two years before the date on which the member sent the nomination and has been in that position for two years before the date of death. There is no similar nomination requirement for married or civil partner survivors. The Department of the Environment of Northern Ireland (DENI) included a nomination requirement in the 2009 Regulations in order to ensure "parity" with other local government pension schemes in Scotland and England and Wales, which at the time had similar requirements.

The appellant, Denise Brewster, lived with her partner, William Leonard McMullan, for around ten years before December 2009. On Christmas Eve that year, they became engaged. Mr McMullan died two days later. At the time of his death, Mr McMullan was employed by Translink, a public transport operator, for whom he had worked for approximately 15 years. Throughout that time he had been a member of, and had paid into, the Local Government Pension Scheme (the scheme). Ms Brewster believes that Mr McMullan had completed a form in which he nominated her to be eligible for a survivor's pension, but the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC), which administers the scheme, says it did not receive any form.

⁷ [HC Deb 23 May 1991 1124-6](#)

⁸ Case ref: [2017] UKSC 8

Accordingly, NILGOSC refused to pay her a survivor's pension. Ms Brewster applied for a judicial review of this decision.

The High Court held that the requirement of nomination of a cohabiting partner in the 2009 Regulations was incompatible with article 14 of the European Convention on Human Rights (which prohibits discrimination) read together with article 1 protocol 1 (peaceful enjoyment of possessions) ("A1P1"). The Court of Appeal allowed the respondents' appeal, finding that the nomination requirement was neither unjustified nor disproportionate. In the meantime, prompted by the judgment of the High Court, the equivalent regulations in England and Wales and in Scotland were amended to remove the nomination requirement in those schemes. When the appellant became aware of these changes, she applied to the Court of Appeal for her appeal to be re-opened. Her application was refused and she now appeals to the Supreme Court.

JUDGMENT - The Supreme Court unanimously allows Ms Brewster's appeal and declares that the requirement in the 2009 Regulations that the appellant and Mr McMullan should have made a nomination be disapplied; and that the appellant is entitled to receive a survivor's pension under the scheme. Lord Kerr gives the judgment, with which the other Justices agree.⁹

Initial responses

The ruling relates to the Local Government Pension Scheme in Northern Ireland. However, lawyers representing Ms Brewster said the reasoning behind the decision meant that identical rules in other public sector schemes were likely to be unenforceable:

Denying bereaved cohabittees access to survivor pensions causes huge distress as well as significant financial hardship. Now that around 1 on 6 families in the UK are cohabiting families, reform is long overdue.

The Supreme Court has decided that there was unlawful discrimination on grounds of marital status. This is the first marital status discrimination claim to reach the Supreme Court and it is likely to have a significant wider impact, both in relation to pensions and in other areas where long-term cohabittees are treated less favourably.

The rule which the Supreme Court has declared was unlawful is found in most of the UK's public sector pension schemes of which there are around 12 million members. This includes the NHS, teachers and civil service schemes. It is also found in many defined benefit pension schemes in the private sector.

Although the Supreme Court has only declared the Northern Ireland local government scheme to be unlawful, the reasoning behind the Court's decision means that the identical provisions found in many other public sector schemes are likely to be unenforceable.

In addition, while the Human Rights Act does not bite on private sector schemes, members of those schemes will rightly expect their employers not to operate schemes which discriminate unfairly on grounds of marital status.¹⁰

⁹ [UK Supreme Court press release, 8 February 2017](#)

¹⁰ [Supreme Court upholds cohabitee discrimination claim, 8 February 2016, Deighton Piece Glynn](#)

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A pensions lawyer quoted in *Public Finance* said that schemes might need to consider revisiting past refusals:

[...] there should be no implications for the LGPS outside Northern Ireland as the nomination requirement was dropped when the new career average benefits scheme was introduced in 2014-15.

However, she added: "There could be significant implications for other major public sector schemes, such as teachers', NHS, police and civil service since they all contain the same nomination requirement. The only notable exception is the firefighters' scheme, which dropped the requirement when the new 2015 scheme was introduced. And all schemes may need to consider revisiting any past refusals to provide cohabitants' benefits where this was solely owing to the lack of a nomination form."¹¹

The trade union UNISON welcomed the ruling:

Today's judgement is good news for anyone like Denise Brewster who stood to lose out on their partner's pension, simply because a form hadn't been signed.

It means the Northern Ireland local government pension scheme and others covering people working in education, the NHS and the civil service will now have to look again at their rules.

The last thing a recently bereaved person needs is to have to fight for a pension that's rightfully theirs. This thankfully will no longer be necessary.¹²

It said that another legal case due to be heard would "determine whether partners denied pensions in the past because a nomination form was not completed will also be able to claim."¹³

The Government's response

Following the judgment, HM Treasury wrote to public pension schemes saying that cases previously refused solely because of lack of a nomination form should be reconsidered:

Chris Evans: To ask Mr Chancellor of the Exchequer, pursuant to the Answer of 3 March 2017 to Question 652450, what assessment he has made of the implications for his policies of the judgment of the Supreme Court of 8 February 2017 in the matter of an application by Denise Brewster for Judicial Review (Northern Ireland) [2017] UKSC8; and whether schemes will be required to revisit past cases where a survivor's pension was refused because no nomination had been made.

Elizabeth Truss: HM Treasury officials wrote out to public sector pension schemes in England, Wales, Scotland and Northern Ireland on 6 April 2017. The letter made clear that cases like that of Ms Brewster should be dealt with in line with the UK Supreme Court's decision. Cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member's death in eligible cases, regardless of when a claim is made.¹⁴

¹¹ [Supreme Court gives woman right to late partners' LGPS pension](#), 8 February 2017

¹² [Brewster judgement means pension schemes must look again at their rules, says UNISON, 8 February 2017](#)

¹³ *Ibid*

¹⁴ [PO 105675, 16 October 2017](#)

Walker v Innospec

In a separate judgment, the Supreme Court allowed the appeal of Mr Walker, who had argued that his pension scheme should provide equal pension benefits for his partner, based on service before December 2005. It made a declaration that:

- i) paragraph 18 of Schedule 9 of the Equality Act 2010 is incompatible with EU law and must be disapplied, and
- ii) Mr Walker's husband is entitled on his death to a spouse's pension, provided that they remain married.¹⁵

The Government said it was reviewing the implications of the Supreme Court judgement.¹⁶ On 21 March 2018, it wrote to public service pension representatives about the implications of the judgment.¹⁷ The Teachers' Pension Scheme website explains that:

Following the Government's consideration of the implications for public service pension schemes of the Walker v Innospec case, regulatory changes will be introduced to provide that:

1. survivors of same-sex marriages and civil partnerships are treated in the same way as widows of opposite sex marriages (survivor benefits in relation to service from 1 April 1972 or 6 April 1978 if the marriage was after the last day pensionable service); and
2. the change applies from the date civil partnerships and same-sex marriages were implemented.¹⁸

It says the Government is not extending the same treatment to widowers and unmarried partners and that it will respond to its [review of survivor benefits](#) in due course:

Q – Why are schemes not going further and fully equalising survivor benefits for widowers and unmarried partners?

A – The Government's position remains that benefit entitlements should generally be determined in light of the rules applicable at the time the member served. To do otherwise would make Defined Benefit pension schemes unmanageable and unaffordable, and would mean that subsequent generations pick up the costs of improving benefits beyond those envisaged at the time.

Q – Why has the Government still not responded to the 2014 DWP Review of Survivor Benefits?

A – The Review provided a lot of important information on the costs and impacts of any changes to the existing system of survivor benefits. This is a complex area and it was to be expected that a thorough consideration of the issue would take time. No final decisions have been made on these issues. The Government will respond in due course.

¹⁵ [Press summary, Walker v Innospec, 12 July 2017](#)

¹⁶ [POHL761 25 July 2017](#)

¹⁷ [PO 135229, 19 April 2018](#)

¹⁸ TPS, [Survivors' benefits in the Teachers' Pension Scheme, 27 April 2018](#)

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For more on the background, see section 4 of Library Briefing paper CBP-3035 [Pensions: civil partnerships and same-sex marriages](#) (April 2018).

2. Public sector schemes

2.1 Background

Until reforms introduced in the first decade of the 21st century, public service pension scheme did not provide survivor pensions for unmarried partners. This was in contrast to private sector schemes, where the trustees were able to exercise discretion to provide such benefits. However, changes in lifestyles had led to pressure for schemes to be modernised.¹⁹

The TUC published a pamphlet in December 1995, *Pensions and prejudice: how public sector pension schemes discriminate against non-married partners*. There were also Early Day Motions on the issue in 1997/98 and 2001/02.²⁰

Pressure for reform came from a number of factors, including changes in lifestyles.²¹ In its 1998 Pensions Green Paper, *A new contract for welfare: partnership in pensions*, the Labour Government conceded that the public sector lagged behind the private in terms of provision of survivors' benefits for unmarried partners. It would be prepared to consider change if the membership were prepared to meet the additional costs:

58 Since 1978, all occupational pension schemes and personal pensions used to contract out SERPS have had to provide for a survivor's pension for a widow, and from 1998 this requirement was extended to a surviving widower. The same provision will apply to stakeholder pension schemes

59 Beyond these minimum requirements, the precise package of survivors' benefits provided by occupational pension schemes depends on what the sponsoring employer finds it worthwhile to provide (for example, in terms of recruitment and retention), given the views of members. Most large occupational pension schemes in the private sector now provide survivors' benefits for unmarried partners of the opposite sex of scheme members, although in the overwhelming majority of cases, this is at the discretion of the trustees. In a minority of schemes, same-sex partners are also eligible, again at the trustees' discretion.

60. The public service schemes at present provide survivors' pensions only for the legal spouse of a deceased member. If the general membership of a public service scheme wanted, in future, to extend eligibility for survivors' pensions to unmarried partners and were prepared to meet the additional costs, the Government would be prepared to consider how practicable arrangements could be devised for achieving this in the context of a statutory scheme. In many cases, this would be most effectively achieved by developing a new pension scheme.²²

¹⁹ [NAO, The impact of the 2007-08 changes to public sector pensions, HC 662, 8 December 2010](#)

²⁰ EDM 1582 1997/98 [Gisela Stuart]; EDM 1135 2001/02 [James Purnell]

²¹ NAO, [The impact of the 2007-08 changes to public sector pensions](#), HC 662, 8 December 2010

²² DSS, [A new contract for welfare: partnership in pensions](#), December 1998, Cm 4179, chapter 8

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A Parliamentary Written Answer in April 2003 gave estimated costs.²³

The Labour Government reformed the main public service schemes over the period 2002 to 2008. Although the new schemes had features, such as improved survivors' benefits, that would be advantageous to some members, overall the new schemes were less valuable to members than the existing schemes.²⁴

Improvements to survivors' benefits included:

- The introduction of survivor pensions for civil partners, consequent on the implementation of the *Civil Partnership Act 2004*, with effect from 5 December 2005;
- The introduction of survivor pensions for nominated cohabiting partners subject to certain conditions; and
- The abolition of rules under which a widow(er)'s pension was lost on remarriage, cohabitation or the formation of a new civil partnership.

Making married partner survivors' pensions payable for life (instead of ceasing on remarriage of the survivor) was conventionally assumed to be a change which should be associated with the introduction of unmarried partner survivor pensions for life.²⁵

The way in which the reforms were introduced varied by scheme. However, the scheme member generally either had to have service after the date of the reform (as in the Teachers' and NHS schemes) or to opt to transfer to the new, post-reform scheme (as in the schemes for the uniformed services).

Policy responsibilities - devolved administrations

Public service pensions schemes are provided for under primary legislation – most recently the [Public Service Pensions Act 2013](#) – that applies to Great Britain.

The Civil Service Pension Scheme applies across Great Britain and Armed Forces Pension Schemes are UK-wide ([Public Service Pensions Act 2013](#), Sch1).

The Scottish Government has power to make regulations for the schemes for the NHS, teachers, local government, police and firefighters in Scotland ([Scotland Act 1998](#), sch 5).

The National Assembly for Wales has the power to make regulations for firefighters' pensions in Wales ([Government of Wales Act 2006](#), s94 and Sch 5 and 7).

For Northern Ireland, policy on public service pensions is devolved (except for the armed forces and higher judiciary) ([Northern Ireland Act 1998](#)). However, by long-standing convention, the main provisions in the Northern Ireland schemes tend to mirror those in Great Britain.

²³ [HC Deb 2 April 2003 c715-6W](#)

²⁴ PPI, [An assessment of the Government's reforms to public sector pensions](#), October 2008, p3

²⁵ [HC Deb 2 April 2003 c715-6W](#)

2.2 Armed Forces Pension Scheme (AFPS)

There are different schemes for members of the Armed Forces, depending on the date of joining the armed forces.

Unmarried partners of members of the scheme introduced in 1975 (**AFPS 75**) are only eligible for survivors' benefits if the death was attributable to service. A leaflet for scheme members explained:

Surviving Spouse/Civil Partner may receive up to 50% of the member's pension. Pensions for eligible children may also be payable. Pensions for eligible partners may be payable if death is attributable to service.²⁶

A 2001 Ministry of Defence consultation on reforms to the scheme did not address the question of benefits for unmarried partners.²⁷ However, a 2003 report on the consultation said:

In view of the responses received concerning unmarried partners, those within a substantial relationship will be eligible for 'widow's' benefits under the new scheme. Further work is being undertaken in this area to define the arrangements for the registration of partners.²⁸

A number of cases of servicemen killed in action, leaving long-term partners and children with no pensions, highlighted this omission and on 20 March 2003 the Government announced that unmarried partners of service people who died as a result of service related to conflict would qualify for ex-gratia payments equivalent to benefits paid to surviving spouses.

The Parliamentary Under-Secretary of State for Defence (Dr Lewis Moonie): The Government is aware of the concerns of Service personnel whose unmarried partners are currently ineligible for pension benefits. While this is being considered as part of the reviews of pension and compensation arrangements for the Armed Forces, we have concluded that it would be appropriate to address now the particular risks associated with conflict. We have therefore decided that, as of today, where a Service person dies as a result of service related to conflict, ex-gratia payments equivalent to benefits paid to a surviving spouse under the Armed Forces Pension Scheme may be awarded to their unmarried partner, where there is a substantial relationship. Eligibility for such benefits will be assessed against a set of criteria which would include financial dependence or interdependence, children, shared commitments such as a mortgage, prime beneficiary of a will, shared accommodation, the length of the relationship and no legal spouse. The decision on eligibility would be based on a broad assessment of the substance of the relationship and not all of these criteria would need to be met for entitlement to exist.²⁹

On 15 September 2003 it was announced that the AFPS would provide survivor benefits to unmarried partners where the death was

²⁶ AFPS75, [Your pension scheme explained](#), (MMP/106, February 2015), p 3 and 20

²⁷ MoD, *The Armed Forces Pension Scheme Review - A consultation document*, March 2001

²⁸ MoD, *New Armed Forces Pension Scheme. Report on consultation process*, September 2003, p5

²⁹ HC Deb, 20 March 2003, c54WS

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attributable to service. Unmarried partners for non-attributable deaths would be provided under the new AFPS:

The Ministry of Defence will also be extending the provisions introduced on 20 March 2003 which provided benefits to unmarried partners for attributable deaths related to conflict. The current AFPS will provide attributable benefits to unmarried partners where there is a substantial relationship for all attributable deaths with an effective date of 15 September 2003. The current AFPS does not provide unmarried partner benefits for non-attributable deaths, but this benefit will be available under the new AFPS.³⁰

The October 2003 *Framework document for the new Armed Forces Pension Scheme* said that registered unmarried partners would also be eligible to receive a widow/widower's pension subject to the relationship being substantial at the time of death.³¹

AFPS 75 was closed to new entrants from April 2005 and a new scheme - AFPS 05 - was introduced for new entrants from that date. This provides dependants' pensions for "eligible" unmarried partners. These are payable for life, irrespective of re-marriage or cohabitation:

Partners, other than civil partners, are also eligible to receive a pension, providing that it can be demonstrated that a substantial relationship existed and there is no spouse or civil partner. These examinations will be conducted with sensitivity so far as possible.³²

The rules are in the [Armed Forces Pension Scheme Order 2005 \(SI 2005 No. 438\)](#) Schedule 1, Part E. Rule E.2 provides for an 'adult dependant' to be entitled to a survivors' pension provided that the Secretary of State is satisfied that at the time of the member's death:

- (a) the person and the member were cohabiting as partners in an exclusive and substantial relationship,
- (b) the person and the member were not prevented from marrying (or would not have been so prevented apart from both being of the same sex), and
- (c) either the person was financially dependent on the member or the person and the member were financially interdependent.

Survivors' benefits in the new scheme introduced in April 2015 are based on those in AFPS 05.³³

For more detail see, Library Standard Note SN 5892 [Armed forces pension reform – 1995-2005](#) (September 2015) and [Armed forces pensions - 2015](#) (August 2015).

³⁰ [HC Deb, 15 September 2003, cc39-40WS](#)

³¹ MoD, *A Framework Document for the new Armed Forces Pension Scheme*, October 2003, para 6.1

³² AFPS 05, [Your Pension Scheme Explained](#), (MMP/124, August 2012)

³³ [HC Deb 16 October 2012 c15-16WS](#); See Library Briefing Paper SN-05891 [Armed forces pensions - 2015](#) (August 2015).

2.3 Civil Service Pension Scheme

The scheme for civil servants introduced in 1972- *classic* - pays survivors' pensions to legal spouses and civil partners (although a lump sum death benefit may be paid to a person nominated by the member). Members of *classic* who remain unmarried throughout their careers have the option to apply for a refund of contributions.³⁴

A review resulted in the introduction of a new scheme for new entrants – *premium* – in October 2002. *Classic* was closed to new members and existing members were given the option to transfer to *classic plus* from 1 October 2002. *Classic plus* benefits are a combination of classic benefits up to 30 September 2002 and premium benefits after that.³⁵

Under *premium* and *classic plus*, a survivor's pension is payable to an unmarried partner provided certain conditions are met:

We may provide a pension for your partner if:

- you have nominated your partner and you have completed a joint declaration of partnership, and
- at the time of your death:
 - you and your partner were living together in an exclusive committed long-term relationship
 - you and your partner were free to marry or enter into a civil partnership, and
 - either your partner was financially dependent on you or the two of you were financially interdependent.³⁶

(NB. Following the decision of the Supreme Court in *Brewster*, "cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member's death in eligible cases, regardless of when a claim is made").³⁷

Reflecting the Labour Government's view that the cost of improvements should be met by members, employee contribution rates in *premium* and *classic plus* are higher than in *classic*. A Parliamentary Written Answer from 2002 said:

We are moving to the new arrangements on a cost-neutral basis, with the entire cost of benefit improvements being met by increased contributions by members. None of the cost of the benefit improvements will fall on the taxpayer. All premium and classic plus members will pay the new contribution rate of 3.5 per cent. Members opting to remain in the classic scheme will continue to pay contributions of 1.5 per cent of pay.³⁸ [emphasis added]

In debate in 2006, the then Cabinet Office Minister, Jim Murphy said:

³⁴ Civil Service Pensions, [Your classic pension benefits explained, April 2016](#), p 14 and Appendix A

³⁵ See, Civil Service Pensions, [Your classic plus pension benefits explained](#), March 2012

³⁶ Civil Service Pensions, [Pensions for partners – a guide](#), May 2013, p2; [Principal Civil Service Pension Scheme - Section 1 \(2002 Section\)](#). Rule E2

³⁷ [PQ 105675](#), 16 October 2017

³⁸ [HC Deb, 22 July 2002, c728-30W](#)

When we introduced a new civil service pension scheme in October 2002, the deal agreed with the unions was that the entire cost of the scheme improvements would be met by members paying higher contributions [...] Although the new scheme was intended for new entrants, it is important to note that we gave civil servants in service when the new scheme was introduced the option to transfer to the premium scheme, if they were prepared to pay the higher contributions. Those who chose to transfer all their service across also agreed that it would be reduced to reflect the improved, and more costly, benefits.

Inevitably, comparisons have been drawn between the more generous provisions of premium and the benefits paid under classic, which apply both to those who left the civil service before October 2002 and to the majority of serving civil servants who opted to stay put rather than transferring to premium. My hon. Friend understandably made that comparison this evening.

It is true that premium is more generous in certain aspects of the benefits available to widows and widowers of members. It provides a pension based on the member's entire service, even if the marriage began after the member left service. It also provides for a pension for life for a widow or widower, even if she or he remarries or cohabits, and pensions for unmarried partners.

Many other improvements have been made to public service pensions over the years, which, it has been argued, should be applied retrospectively. They all have clear benefits for members so it would be difficult to implement some and not others.³⁹

In 2007, a Q&A on the Civil Service Pensions website said it was "highly unlikely" that pensions for unmarried partners would be extended to the classic scheme. This was "one of the reasons we offered members the option, in 2002, to go into premium or classic plus."⁴⁰

The new scheme introduced in April 2015 – *alpha* – provides survivors spouses and partners pension, in line with *premium*.⁴¹

Guides to the schemes are on the [Civil Service Pensions website](#) (see for example: *Pensions for partners: a guide*, May 2013).

For more information see Library Standard Note SN-06744 [Civil service pensions – current reforms](#) (June 2014) and SN 3224 [Civil Service Pension Scheme](#) (October 2013).

2.4 Firefighters' Pension Scheme

The Firefighters Pension Scheme 1992 provides a survivors' pensions for widows, widowers and surviving civil partners.⁴²

An independent review of the fire service, *Reducing Risk, Saving Lives*, conducted by Sir George Bain and published in December 2002, recommended that the firefighters' pension scheme should be modernised. Amongst other things, it said:

³⁹ [HC Deb 27 February 2006 c102](#)

⁴⁰ Questions and Answers for Scheme Members. Last updated 09/08/2007 (viewed October 2007)

⁴¹ [HC Deb 12 March 2012 c1-2WS; *The Public Service \(Civil Servants and Others\) Pensions Regulations 2014 \(SI 2014/1964\)*](#), reg 100 and 101

⁴² [Short guide to the Firefighters' Pension Scheme \(FPS\)](#), May 2013

There could be other changes to reflect social developments such as the increasing proportion of those with unmarried partners, and to provide greater incentives for the rehabilitation of those who have become ill or have been injured on duty.

In October 2004, the Labour Government proposed introducing a New Firefighters' Pension Scheme (NFPS) for new entrants from April 2006. One of the proposals was to introduce survivors' pensions for unmarried partners:

2.35. It is Government policy that survivor pensions can be extended to unmarried partners if:

- the costs of the extra benefits are met by scheme members through higher employee contributions or a scaling back of other member benefits;
- the general membership of the scheme want the change; and
- there are practicable arrangements for defining eligibility

2.36. We would be ready to extend survivors' benefits to unmarried partners on these terms provided they were financially dependent on or interdependent with the scheme member. To ensure that such partnerships are binding commitments, we also propose to require that the partner had been nominated by the member before death, that the couple had been living together in an exclusive relationship for at least two years and that they are free to marry.⁴³

The new scheme for firefighters introduced in April 2006 provides for a survivor's pension to be payable to a nominated unmarried partner:

(a) has been living with the firefighter member, otherwise than as his spouse or civil partner, in a long-term relationship; and

(b) at the date on which the question of the person's status in relation to the firefighter member falls to be considered—

(i) is not the spouse or civil partner of any other person,

(ii) is registered with the scheme administrator as the firefighter member's nominated partner, and

(iii) is financially dependent on the firefighter member or is, with the firefighter member, in a state of mutual financial dependency⁴⁴

(NB. Following the decision of the Supreme Court in *Brewster* (see [above](#)), the Government has said that "cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member's death in eligible cases, regardless of when a claim is made").⁴⁵

The Firefighters' Pension Scheme 1992 was closed to new entrants from 6 April 2006. The Government explained why it was not introducing pensions for unmarried partners in that scheme:

Issues and comments

⁴³ ODPM, [Government Proposals for a New Firefighters' Pension Scheme](#), October 2004.

⁴⁴ *Firefighters' Pension Scheme (England) Order 2006 (SI 3243)*. Sch 1, Part 2 (1) and Part 4, Chapter 1, rule 1

⁴⁵ [PO 105675](#), 16 October 2017

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1.8 The introduction of pensions for partners in the new scheme should be extended to the existing scheme. As the proposals stand existing firefighters will only be able to secure a pension for their partner if they give up the advantages of the current scheme. This is an unreasonable choice.

Government responses

We have had very limited requests for extension of the FPS to provide partners pensions. As the benefit could only be provided at cost to members of the scheme and any member who wished for such provision will be able to do so through the new scheme, we do not propose to make such provision.⁴⁶

Members of the FPS were given the option to transfer to the NFPS.⁴⁷

The new scheme introduced from April 2015 provides for survivor's pensions to be payable to a surviving spouse, civil partner or a cohabiting partner provided they were in a long-term relationship and either financially dependants or in a state of mutual financial dependency. There is no requirement for a nomination to have been made. Regulation 76 states:

For the purposes of these Regulations, a person is a surviving partner in relation to a member if, at the date of the member's death, that person is—

(a) the spouse or civil partner of the member; (b) cohabiting with the member and—

(i) is not married or in a civil partnership with that member, and

(ii) is not the spouse or civil partner of any other person, and

(iii) could enter into a marriage or civil partnership under the law of England and Wales with the member but has not done so,

(iv) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and

(v) is in a long-term relationship with the scheme member.⁴⁸

For more detail on the scheme, see Library Standard Note SN 3260 [Firefighters' Pension Scheme – background](#) (August 2013) and SN-06585 [Firefighters pension schemes – current reforms](#) (February 2013).

2.5 Local Government Pension Scheme

Following a consultation exercise, the then local Government Minister, Phil Woolas, announced in November 2006 that a new scheme for present and future members would be introduced from 1 April 2008. It would include survivor benefits for unmarried partners:

The consultation package will propose that the scheme remains as a final salary pension arrangement and be based on an accrual of

⁴⁶ ODPM, [Proposals for amendments to the Firefighters' Pension Scheme – Government response to the consultation](#), September 2005; [The Firefighters' Pension Scheme \(Amendment\) \(No.2\) \(England\) Order 2006 \(SI 2006/3433\)](#)

⁴⁷ [Firefighters' Pension Scheme 1992 – New Firefighters' Pension Scheme 2006 – Your choice](#) (2007) (viewed 2012); [Firefighters Pension Scheme \(England\) Order 2006 \(SI 2006/3423\)](#), Sch 1, Par4 4, Chapter 1, rule 1

⁴⁸ [Firefighters' Pension Scheme \(England\) Regulations 2014, SI 2014/2848](#), reg 76; [Firefighters' Pension Scheme \(Scotland\) Regulations 2015 \(SSI 2015/19\)](#), reg 76; [A Guide to the Firefighters' Pension Scheme Wales 2015](#), October 2015, p25

1/60th of salary for each year of membership. It will continue to have a normal pension age of 65, and will move towards providing, by 2010, for pensions to be paid no earlier than age 55, rather than the current minimum age of 50, except on grounds of ill-health. A revised and better targeted ill-health retirement package is to be proposed, and survivor benefits, which are available for spouses, civil partners, and children, will be extended to include other co-habiting partners. In order to help equality-proof the scheme, tiered employee contribution rates, linked to salary, will be introduced, as well as more flexible retirement provisions. Arrangements will be included which protect the accrued rights of all existing scheme members up to 31 March 2008. All present and future members of the scheme will build up rights in the new-look scheme from 1 April 2008.⁴⁹

The new scheme was provided for in the [*Local Government Pension Scheme \(Benefits, Membership and Contributions\) Regulations 2007 \(SI 2007/11\)*](#). Regulation 24 (1) provides that:

if a member dies leaving a surviving spouse, nominated cohabiting partner or civil partner, that person is entitled to a pension

Regulation 25 provided that:

“nominated cohabiting partner” means a person nominated by a member in accordance with the terms of this regulation.

The rules were changed to remove the ‘nomination requirement’ when reforms were introduced in 2014 (England and Wales) and 2015 (Scotland). The schemes now provide for a survivors’ pension to a cohabiting partner, which means:

[...] a person whom the appropriate administering authority is satisfied fulfils the following conditions—

(a) the person (P) has fulfilled the condition in paragraph (b) for a continuous period of at least 2 years on the date the member (M) died, and

(b) the condition is that—

- (i) M is able to marry, or form a civil partnership with P,
- (ii) M and P are living together as if they were husband and wife or as if they were civil partners,
- (iii) neither M nor P is living with a third person as if they were husband and wife or as if they were civil partners, and
- (iv) either P is financially dependent on M, or M and P are financially interdependent;⁵⁰

For more detail on these reforms see Library Standard Note SN 4115 [Local Government Pension Scheme – 2008 reforms](#) (June 2012) and SN 5823 [Local Government Pension Scheme - 2010 onwards](#) (July 2012).

⁴⁹ HC Deb, 23 November 2006, c69-70; See also, [Minister’s statement and letter to chief executives](#), 23 November 2006 [viewed January 2011]

⁵⁰ [Local Government Pension Scheme Regulations 2013 \(SI 2013/2356\)](#), Reg 41, Sch 1; [Local Government Pension Scheme \(Scotland\) Regulations 2014 \(SI 2014/164\)](#), reg 39 and Sch 1

2.6 NHS Pension Scheme

Before April 2008, the NHS Pension Scheme provided survivors pensions for widow(ers) and surviving civil partners but not to unmarried partners.⁵¹

A review in 2002 concluded that while there was a strong demand for the extension of survivors' benefits to unmarried partners, scheme members were unwilling to pay extra to finance this:

8. There is a general consensus that extending dependants' cover to non-spouses would be a positive first step to modernising the pension scheme. It was generally the one issue on which there was common ground on principles. Scheme managers and employers would welcome this improvement but, at present, unless the general membership was prepared to fund the new cover, it would seem that this major change could only realistically be achieved in the context of a new Scheme. This has been the approach in the Civil Service where a new pension package has been developed, with enhanced benefits but at higher contribution rates.⁵²

In August 2006, NHS Employers and trade unions set out proposals for reform. They asked for views on a recommendation for the new scheme to provide pensions for unmarried partners:

8.38 The new scheme will have to provide survivor benefits to same-sex partners who have registered their relationship, as a result of the legislation. The Review examined whether these benefits should be extended. Two options were considered: extending benefits to partners or extending benefits to any nominee. The option of extending benefits to any nominee was discounted. It was felt that the scheme was not intended to pay survivor benefits as a general right regardless of relationship. Such proposals were both difficult to scope and appeared expensive.

8.39 The proposed pensions for the surviving partners of people who are in relationships but who are not married (including same-sex relationships), assumes that the definition of partner broadly follows that adopted by the Principal Civil Service Pensions Scheme. That is that, to qualify for a partners' pension, the member would need to have nominated their partner and, together, completed a joint declaration of partnership. At the time of the members' death, they would need to have been living in an exclusive, committed long-term relationship, have been free to marry or have a civil registration, and there would need to have been financial dependence or interdependence.

8.40 There is a clear issue of the pension scheme needing to reflect current social patterns of behaviour and to treat all members and their partners fairly. This change would also mean that the practice of cessation of survivor pension on remarriage would cease. This affects surviving widows/widowers who have to give up their survivor pension if they remarry. We strongly recommend that the new scheme includes survivors benefits for partners.

⁵¹ NHS Pensions Regulations 1995, SI 1995/300, part 5

⁵² NHS Pensions Agency, [Modernity: A Millennium Health Check for the NHS Pension Scheme](#), 17 December 2002

The Review partners welcome views on the recommendation that the new scheme provide partner pensions including ending cessation of survivor pension on remarriage.⁵³

A final agreement on reform was announced in March 2007. This said there would be two schemes – an updated scheme for existing members and a new one for new members, implemented on 1 April 2008. There would be a “choice exercise” during which existing scheme members would be given the option to move to the new scheme.

Members of the existing scheme (the 1995 section) with pensionable service on or after 1 April 2008 and members of the 2008 section would be able to nominate a partner to receive a pension after their death.⁵⁴ The regulations provide that:

“surviving adult dependant” in relation to a deceased member or former member, means the member’s or former member’s surviving spouse, civil partner or nominated partner.

A person is a surviving nominated partner if:

- (a) the person and the member jointly made and signed a declaration in such form as the Secretary of State requires that remains effective at the member’s death, and
- (b) the person satisfies the Secretary of State that for a continuous period of 2 years ending with the member’s death—
 - (i) the person and the member were living together in an exclusive relationship as if they were husband and wife or civil partners,
 - (ii) the person and the member were not prevented from marrying or forming a civil partnership, and
 - (iii) the person was financially dependent on the member or the person and the member were financially interdependent.

Members’ survivors would receive “spouse/partners pensions for life.”⁵⁵

(NB. Following the decision of the Supreme Court in *Brewster* (see [above](#)), the Government has said that “cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member’s death in eligible cases, regardless of when a claim is made”).⁵⁶

The new scheme introduced in April 2015 - [NHS Pension Scheme 2015](#) - provides dependant’s pensions to a surviving spouse, civil partner or nominated qualifying partner. A leaflet for scheme members explains:

If you are not in a legally recognised relationship, you and your partner are required to complete a form to register your relationship. There are criteria that must be met for your nominated partner to qualify for benefits and these will be checked in the event of your death. A PN1 form to nominate a

⁵³ NHS Employers, *Moving to the future: the NHS Pension Scheme Review: joint proposals from NHS Employers and the NHS trade unions*, August 2006, p27

⁵⁴ [SI 2008/654](#); [Explanatory Memorandum](#), p10; NHS Staff Council, [NHS Pension Scheme Review – Agreement between NHS Employers and NHS trade unions](#)

⁵⁵ [NHS Pensions Regulations 2008 \(SI 2008/653\)](#); Chapter 2 (E);SPPA, [NHS Superannuation Scheme \(Scotland\) Members’ Guide 2008 section](#),

⁵⁶ [PO 105675](#), 16 October 2017

non-legal partner can be downloaded from our website at:
www.nhsbsa.nhs.uk/pensions.⁵⁷

For more on the scheme see, Library Standard Note SN 3281 [NHS Pension Scheme](#) (October 2012).

2.7 Police Pension Scheme

The Police Pension Scheme 1987 provides survivors pensions to widows and widowers.⁵⁸ [A Member's Guide](#) to the scheme explained that:

Adult survivors under the PPS include widows, widowers and civil partners but not cohabitants who were not married or in a civil partnership.⁵⁹

Proposals for reform of the scheme in December 2003 included extending survivors' pensions to unmarried partners:

Survivor benefits for unmarried partners

14 Under the present Police Pension Scheme, only spouses are entitled to survivor benefits. Government proposals on civil partnerships for same-sex couples would give registered partners a status akin to that of a married partner. This includes a proposal that for future service members of public service schemes will earn an entitlement to survivor benefits, including a survivor pension, for a civil partner in the same way as an unmarried partner.

15 Widening the scope of survivors' benefits is likely to be an attractive feature for officers. The proposed scheme would extend partners to unmarried, include same-sex, partners for life provided they were financially interdependent with the scheme member, whether the marriage or other partnership was formed before or after retirement.

16 Safeguards would be needed to ensure that partnerships were real and binding commitments (rather than artificial devices to obtain pension benefits for friends and relatives who are not financially dependant). It is proposed that the new scheme would provide for a partner's pension only if at the time of death:

- The partner had been nominated and a joint declaration of partnership had been completed;
- The officer and partner were living together in an exclusive committed long term relationship (or at least two years);
- The officer and partner were free to marry (or would have been to if they had not been of the same sex); and
- Either the officer's partner was financially dependent on the officer or the two were financially interdependent.

17 It would also be prudent to include arrangements, common in pension schemes, to ensure that where there is a very significant age gap between the scheme member and the partner/spouse the potential survivor does not benefit unduly and, for example, to guard against artificial "deathbed" marriages. It is proposed that in the case of partners (both married and unmarried) who are more than 12 years younger than the officer, the partner's

⁵⁷ [NHS Pension Scheme 2015 – members' guide; NHS Pension Scheme Regulations 2015 \(SI 2015/94\)](#), reg 113-4; SPPA, [Guide to the NHS Pension Scheme \(Scotland\) 2015](#), p11

⁵⁸ [Police Pensions Regulations 1987 \(SI 1987/257\)](#), Part C

⁵⁹ Page 12

pension should be reduced by 2 ½% for every year or part year the age gap exceeds 12 years, up to a maximum of 50%. Also, if the member and a surviving spouse married less than six months before the member's death without having, for example, satisfied the conditions that would have applied to an unmarried partner's pension, the police authority would be given discretion not to pay a spouse's pension.

18 It is proposed that the new scheme should extend survivor benefits to unmarried and same-sex partnerships for life and that safeguards should be put in place to limit these benefits to genuine partners and to limit the age gap between scheme member and survivor. Such safeguards have already been applied when extending unmarried partner benefits to the civil service.⁶⁰

The 1987 scheme was closed to new entrants and a new scheme - the New Police Pension Scheme 2006 – introduced on 6 April 2006. Existing members were given the option to transfer to the NPPS on “favourable terms” between 1 November 2006 and 31 January 2007. A Home Office leaflet explained:

When do I make my decision?

Any time between 1 November 2006 and 31 January 2007. Any decision to change must be made in writing on the form provided and submitted to your force within these dates. After this period, the terms under which service can be transferred from PPS to NPPS will be much less generous, and you will only be able to transfer your service if you have less than 25 years' pensionable service in PPS.⁶¹

[A guide to the New Police Pension Scheme 2006](#) explained:

5.5.2 Unmarried partners who are not civil partners

An unmarried partner who is not a civil partner is someone with whom you have a long-term relationship but to whom you are not married (if you are of opposite sexes) or with whom you have not formed a civil partnership (if you are of the same sex). If you have no spouse or civil partner, it may be possible for a survivor's pension to be paid (for life) to your partner on the same basis as if he/she had been your spouse or civil partner. For this, you and your partner must have completed and sent to the police authority a joint declaration form to confirm that all of the following apply:

- there has been cohabitation for a period during which your partner has been financially dependent on you, or both of you have been financially interdependent
- the relationship is a committed relationship intended to continue indefinitely
- you each have mutual responsibility for the other's welfare • you are free to marry each other (if you and your partner are of opposite sexes) or free to form a civil partnership (if you are of the same sex) and neither of you is married or a civil partner or nominated as the partner of anyone else

⁶⁰ Home Office, [New Police Pension Scheme for Future Entrants](#), December 2003, p21

⁶¹ Home Office leaflet, [“Understanding your choice”](#), October 2006, p5; [Explanatory Memorandum to SI 2006/3145](#)

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- you agree to inform the scheme administrator if the relationship ends. A pension will not be paid to an unmarried partner who is not a civil partner unless he or she is the subject of a joint declaration form – referred to below as a nominated partner.⁶²

This was provided for in the [Police Pensions Regulations 2006 \(SI 2006/3415\)](#), reg 40.

The new scheme introduced in April 2015 also provides survivors' pensions to unmarried partners, providing the couple has made a declaration that:

- you have lived together for a period during which your partner has been financially dependent on you, or both of you have been financially interdependent.
- the relationship is an exclusive, committed long-term relationship.
- you are free to marry each other (or form a civil partnership with each other), and
- you agree to inform the Police Pension Authority if the relationship ends.

In order for a pension to be paid to a partner who is not your spouse or civil partner, s/he will need to be a declared partner following the completion of a joint declaration form.⁶³

Guides to the Police Pension Schemes are on [Gov.UK](#). See, for example, [Police Pension Scheme 2006: guidance on pensions for unmarried partners](#) (April 2007).

For more on the scheme, see Library Standard Note SN 700 [Police Pension Scheme](#) and SN-06965 [Police pensions – current reforms](#) (March 2015).

2.8 Teachers' Pension Scheme

The [Teachers' Pensions Regulations 1997 \(SI 1997/3001\)](#) enabled a single person to nominate certain individuals (such as a parent, brother or sister who was wholly financially dependent on them) to receive a pension.⁶⁴

In June 2006, the Department for Education and Skills issued proposals for reform, including improvements to survivors' benefits for those retiring on or after 1 January 2007:

Surviving partner benefits would be introduced for both existing members and new entrants from 1 January 2007;

Pensionable employment undertaken on or after 1 January 2007 will count towards surviving partner benefit and, as with widower's and civil partner's pensions, there will be a two year qualifying period;

⁶² Page 13

⁶³ [Police Pensions Regulations 2015 \(SI 2015/445\)](#), Part 9 (chapter 2); [The Police Pension Scheme 2015 Members' Guide](#), p51; See also, [SPPA – Police Pension Scheme – Family benefits](#)

⁶⁴ Reg E23

A consequence of the introduction of benefits for surviving partners is that the existing provisions under which widow(er) pensions are stopped following re-marriage or co-habitation need to be reviewed.

We, therefore, propose that for members who retire on or after 1 January 2007, dependants' (including widow(er)s') benefits will be payable for life i.e. not stopped on remarriage or co-habitation.⁶⁵

The change was legislated for in the *Teachers' Pensions etc (Reform Amendments) regulations 2006 (SI 2006 No. 3122)*. The Explanatory Memorandum said:

(30) Schedule 3 paragraph 41: - new regulation E22A (nomination of partner) is inserted to enable a single scheme member who is in an exclusive, committed long-term relationship to nominate his or her partner (same-sex or opposite-sex) to receive a beneficiary's pension. Paragraphs (1) to (3) prescribe the conditions that must be met for a partner to be nominated. The scheme member and the partner are required to make a joint declaration that prescribed conditions have been met (for a continuous period of two years) when the nomination is made. Paragraph (4) deals with the circumstances under which a nomination ceases to have effect.

Paragraph (5) sets out the circumstances in which a person nominated in accordance with the new regulation becomes entitled to benefits under the scheme as a "surviving nominated partner" (SNP). The SNP will be required to provide evidence at death that the prescribed conditions are met.

(31) Schedule 3 paragraph 46 inserts regulation E27(2B) (relevant service) to define the relevant service that will count in the calculation of a SNP pension. Pensionable employment will automatically accrue from 1 January 2007 onwards, as will service credited on transfer-in for scheme members who enter pensionable employment on, or after, that date. Paragraph (d) caters for the specific terms under which transfers are received from other UK pension schemes for teachers.⁶⁶

Following consolidation of the rules, this was provided for in the [Teachers' Pensions Regulations 2010](#) (SI 2010 No. 990), reg 90.

The new scheme introduced from April 2015 made provision for spouses and partners in accordance with the existing provisions.⁶⁷ The requirement for there to be a nomination remains.⁶⁸ The current guide to the scheme explains:

If you're married or in a civil partnership, your spouse or civil partner will automatically receive a pension after you die provided you have a minimum of two years pensionable service.

Pension Nominees

If you're unmarried you can nominate either a partner or close dependent relative to receive a pension. You'll need two or more years' service after 1 January 2007 to qualify for partner benefits

⁶⁵ [Department for Education and Skills, First class, adaptable and sustainable, June 2006](#), p6; See also, [DfES, Modernisation of the Teachers' Pension Scheme \(TPS\), December 2004](#);

⁶⁶ [Explanatory Memorandum to the Teachers' Pensions etc \(Reform Amendments\) Regulations 2006 \(SI 2006 No. 3122\)](#), p9

⁶⁷ [HC Deb 20 December 2011 c157-8WS](#)

⁶⁸ [Teachers Pension Scheme Regulations 2014 \(SI 2015/512\)](#), regs 134-5

on death. If you want to nominate a partner, you must be able to marry or register a civil partnership and be financially interdependent. A pension will only be paid if you've been living together for at least two years when you die. To nominate a partner just complete the relevant nomination forms.

For your nomination to succeed you'll need to satisfy some conditions:

- Have you lived with your partner in a permanent exclusive relationship for a minimum of two years?
- Have you both been legally free to marry or enter into a civil partnership for more than two years? In other words, has anything like a previous divorce or dissolution been finalised and over with for more than two years?
- Are you and your partner financially interdependent? This'll be checked should you die but it typically means things like sharing bank accounts, a mortgage, being named in each others' wills and running a household together whilst sharing the spending.

You can nominate a parent, step-parent, brother or sister, provided that they're unmarried, widowed, not a civil partner or cohabiting with another person as husband and wife or as civil partners. Your nominee must be wholly or mainly financially dependent on you.⁶⁹

The scheme for teachers in Scotland also requires a nomination for unmarried partners to be eligible for a survivors' pension.⁷⁰

(NB. Following the decision of the Supreme Court in *Brewster* (see [above](#)), the Government has said that "cases previously refused solely because of a lack of nomination form should be reconsidered and schemes should pay survivor benefits from the date of the member's death in eligible cases, regardless of when a claim is made").⁷¹

[Members' guides](#) are on the Teachers' Pensions website – see [Bereavement and family benefits](#).

For more on the scheme, see Library Standard Note SN 405 [Teachers' Pensions – background](#) (February 2013) and SN-06731 [Teachers Pension Schemes – current reforms \(July 2014\)](#).

2.9 MPs' Pension Scheme

A report by the Senior Salaries Review Body (SSRB) in 2001 made a number of recommendations on the subject of survivors' benefits from the pension scheme for MPs – the Parliamentary Contributory Pension Fund (PCPF). This included a recommendation that the "Trustees should canvas the views of Members of the PCPF on the issue of survivor pensions for unmarried partners."⁷²

This recommendation was the subject of an amendment by Dr Evan Harris when the SSRB report was debated by Parliament in July 2001:

⁶⁹ [Teachers' Pensions. Active member guide](#), December 2015, p22

⁷⁰ SPPA, [Teachers Pension Scheme – Family benefits](#)

⁷¹ [PO 105675](#), 16 October 2017

⁷² *Review Body on Senior Salaries, Review of the Parliamentary Pension Scheme*, Cm 4996, March 2001, p7-8

"And that this House believes that survivors' benefits could apply to unmarried partners as well as spouses"—[*Dr. Harris.*]⁷³

This amendment was passed by 289 votes to 33.

In his written answer of 15 July 2002 the then Leader of the House Robin Cook said the Government's policy was that the cost of improvements to survivor's benefits should not fall on the taxpayer:

There are two remaining issues, whether survivor pensions should be extended to unmarried adult dependants and whether survivor pensions should continue if a spouse remarries. It is the Government's policy that neither the cost of extending pensions to surviving adult dependants, nor that of the SSRB recommendation to pay pensions to surviving spouses for life, should fall on the taxpayer. Following the vote last year, the trustees of the pension scheme were asked to consider how these proposals could best be implemented at no cost to the Exchequer. The trustees only reported on 5 July. There has not therefore been sufficient notice for the Government to reach a view on these proposals and whether they do protect the taxpayer against any additional cost. I expect to bring forward proposals to the House in the autumn. Changes will be backdated to today's date.^{F74}

In 2004, a further report by the SSRB recommended that the Trustees should decide what action to take on three recommendations outstanding from the SSRB's March 2001 report, including:

That the provision for curtailing widows' and widowers' pensions upon their remarriage should be removed, at Exchequer cost...

That the Trustees should canvas the views of the members of the PCPF on the issue of survivor pensions for unmarried partners.

It considered that an increase in the retirement age (see below) could enable the proposed improvements to survivors' benefits to be made.^{F75}

On 3 November 2004, the House resolved (without division) that these changes should be implemented as part of a package that was cost-neutral to the Exchequer:

That this House notes recommendation 3 contained in the report of the Review Body on Senior Salaries on parliamentary pay and allowances (Cm. 6354-1), a copy of which was laid before this House on 21st October, and is of the opinion that, subject to consultation with the Trustees of the PCPF and the Government Actuary as to the detailed implementation, the proposals set out in paragraphs (1) to (3) below should be adopted as a package which is, overall, at least cost neutral to the Exchequer:

(1) Pensions calculated on the same basis as pensions for widows and widowers should be introduced for surviving unmarried partners of members in service on or after 3rd November 2004.

(2) Pensions for the widows, widowers and unmarried partners of members in service on or after 3rd November 2004 should be payable for life.^{F76}

⁷³ HC Deb 5 July 2001, c474

⁷⁴ HC Deb 15 July 2002 c83-4W

⁷⁵ *Review Body on Senior Salaries, Review of Parliamentary Pay and Allowances 2004*, Cm 6354-1, October 2004, para 3.22

⁷⁶ [House of Commons, Votes and proceedings: 3 November 2004 ; HC Deb, 3 November 2004, c368-9](#)

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The *Parliamentary Pension (Amendment) Regulations 2005* introduced provisions for surviving partners who were neither married nor a civil partner and made pensions to adult survivors payable for life (although the amount payable can be reduced where the adult survivor is more than 12 years younger than the participant).⁷⁷

The new schemes introduced from 2015 provide survivors pensions for a surviving spouse, civil partner or nominated partner.⁷⁸

For more on reforms to the PCPF, see Library Briefing Papers SN 1884 [MPs Pension Scheme - background](#) (January 2013) and SN 6282 [MPs Pensions](#) (May 2016).

⁷⁷ Parliamentary Pension (Amendment) Regulations 2005 (SI 2005. No. 887)

⁷⁸ MPs' [CARE Pension Scheme, PCPF – a guide for members](#), May 2015; PCPF [MP's Pension Scheme](#), 2012, p19

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