



## POLICE WIDOWS 'LOVE OR MONEY' CASE REACHES THE APPEAL COURT.

The Court of Appeal will consider an appeal this Wednesday that could spell the end for police widows and widowers being forced into choosing between love and money.

The National Association of Retired Police Officers (NARPO) has been calling for a United Kingdom-wide policy on survivors' pensions, which would see those who remarry or cohabit after the loss of their spouse retain their pension entitlement in full regardless of how their spouse died. This is the current model in Northern Ireland and is the UK-wide policy for widows, widowers and civil partners of Armed Forces personnel.

In May 2022, the Manchester Administrative Court ruled against a legal challenge brought by NARPO that would have put an end to police survivors having to make the terrible choice between companionship in later life and keeping their financial support. Whilst the judge, Mr Justice Fordham, dismissed the case, he granted the claimants permission to appeal on two specified grounds; the application of the right to marry and the judge's decision on justification.

The appeal will be livestreamed.

Mr Justice Fordham was aware of the importance of the case going to the Court of Appeal, and in dismissing it noted that:

*"These cases bring into sharp focus the effects of Regulation C9 on the lives, freedom and pursuit of happiness of the Claimants and others like them. Zooming in on those effects they are, in my judgment, properly to be characterised as serious and severe.*

*"The questions of human rights compatibility require the Court to 'zoom out'. The Court has to look at the 'bigger picture': what is happening in the retention of Regulation C9 and why, by reference to the factual and legal context, and the wider implications on all sides."*

The granting of leave to appeal by Mr Justice Fordham was noted at the time as being unusual – highlighting the importance of the case.

Ahead of the hearing, NARPO President Richard Critchley said,

*"The original decision was a bitter blow to the widows, widowers and partners of so many deceased police officers. The sorrow of bereavement was made worse by a failure of the courts to recognise the impact unfair bureaucracy has on their lives. We hope that the Appeal Court will recognise the unfairness of the situation, and provide an opportunity to start undoing the pain. Survivors need to be able to live their lives to the full."*

Jackie Jennings, one of the lead claimants in the case said,

*"The decision earlier this year was deeply disappointing.*

*"When my husband died in 2016 myself and my children were devastated by his sudden loss, and I felt so alone. My new partner has given me the opportunity to find happiness and has given me the prospect of rebuilding my life. I now wish to look forward and enjoy life with my partner. Am I supposed to give up my husband's pension which is nearly £1,000 a month? Without this, I will be a chattel and the responsibility of my new partner. How is this acceptable in the 21st century?"*



*“The current rules are archaic, grossly unjust and simply not fair. All I and my fellow claimants are asking for is an opportunity to have a life that includes the things other people take for granted – to live with the person you love, someone to talk to over dinner, someone who is there when you wake up in the morning. The alternative is to live alone and miserable.*

*“My late husband dedicated his life to the police service and would never have wanted this. My children want me to be happy. This is so cruel.”*

## NOTES TO EDITORS

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The full judgement from May 2022 is attached to this email.

From the judgement:

*Permission to appeal is granted on these grounds:*

- 1) The Judge erred in law and reached an impermissible conclusion in finding (§93) that Regulation C9 “is not a measure which ‘impairs’ or ‘injures’ the ‘essence’ or ‘substance’ of the exercise of the right to marry or which ‘substantially interferes with’ or ‘unreasonably inhibits’ it.*
- 2) The Judge erred in law and reached an impermissible conclusion in finding (§82) that the Interested Party has discharged the onus of justifying Regulation C9 and its retention in the context of (a) Article 8 and (b) Article 14.*

**Reasons.** *I have explained in the judgment at §96 why I am granting permission to appeal. I have taken the two grounds from the Claimant’s ‘Summary Submissions’ (24.5.22) at §§8 and 18, but with some amendment for greater focus and clarity. Where PTA is being sought and given, there is a need for the “grounds” to be expressed clearly and concisely: R (Kaitey) v Secretary of State for the Home Department [2021] EWCA Civ 1875 at §161. The appeal which I think is arguable is one which impugns as legally incorrect my ultimate conclusions, in light of the factual and legal features which I discussed and the approach which I articulated and adopted. The Claimants have “summarised” (§6) multiple other points (§§7, 9-17). I do not see these as freestanding “grounds” having a realistic prospect of success – many of them treat factors in isolation and many attribute to the judgment an approach which I cannot recognise – but what I can see is that they (or some of them) might feature in the “arguments” developed under the two grounds on which PTA is now granted. I see those two grounds as necessary, but also sufficient, for the Claimants – if they wish to pursue an appeal – to be able to marshal their arguments and seek to persuade the Court of Appeal that I have got the result in this case wrong.*

NARPO is a member organisation that represents over 93,000 members spanning all forces across England and Wales.

Spouses and partners of police officers make an immeasurable contribution towards public service which often goes unrecognised. Due to the nature of a police officer’s work, it would be very difficult to have both a career in the force and a family without the support of a partner at home. The support provided by the spouse of a police officer is crucial both emotionally and practically. NARPO recognises this and welcomes spouses, widows, widowers and partners as members.