

Court rules Police Widows and Widowers must continue to choose between love and money.

The National Association of Retired Police Officers (NARPO) and the Police Federation have expressed their profound disappointment after a judge ruled against a legal challenge on widows and widowers' pensions.

However, the judge has given leave to appeal and clear guidance on the basis of the appeal.

NARPO and the Police Federation have been campaigning for widows and widowers of police officers to retain their pension should they seek to remarry or cohabit after the death of their partner.

Currently, many survivors must make a terrible choice between companionship in later life and keeping their financial support.

NARPO is calling for a UK-wide policy on survivor's 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.

Today a judge in Manchester published his findings after a number of widows and widowers challenged the current rules. Several days of legal argument were heard last month at Manchester Administrative Court.

Mr Justice Fordham dismissed the claims but granted the claimants permission to appeal on two specified grounds; the application of the right to marry and the judge's decision on justification.

In his judgement he said, "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."

NARPO President Richard Critchley said, "This decision is a bitter blow to widows and widowers up and down the country.

"Their partners joined the service and dedicated themselves to protecting the public. But it feels like the state has turned its back on them.

"No-one should have to choose between financial security or isolation, it's an impossible decision.

"We welcome the judge taking the unusual step of giving leave to appeal and setting out the direction and grounds for appeal. NARPO take that very seriously and have to consider how we will take this forward. Those decisions will be made very quickly."

Jackie Jennings, one of the lead claimants in the case lost her police officer husband in 2016. She said, "I am deeply disappointed with this decision.

“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.

“This is archaic, grossly unjust and simply not fair. What else am I supposed to do, be miserable and live alone?

“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.”

From the judgement:

Permission to appeal is granted on these grounds:

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.

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. 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.