

Equality Impact Assessment (EIA) Template – Part 1

Policy title and purpose (brief outline):	The Firefighters' Pension Schemes and Compensation Scheme (Wales)(Amendment) Order 2018
Name of official:	Cerys Myers
Department:	Education and Public Services
Date:	May 2018
Signature:	

1. Please provide a brief description of the policy/decision.

For example what is the overall objective of the policy/decision, what are the stated aims (including who the intended beneficiaries are), a broad description of how this will be achieved, what the measure of success will be, and the time frame for achieving this?

- **Amending survivor benefits under the 1992 Scheme and the 2007 Compensation Scheme**

Spouses or civil partners of firefighters who die in service are eligible to receive certain benefits related to that firefighter's pension. However, current provisions in these two schemes mean that compensation and pension benefits for survivors of members of the 1992 Scheme cease to be payable if the surviving partner remarries or forms a new civil partnership. This is arguably inequitable, particularly for those whose spouse or partner died in the course of his or her duties. The Firefighters' Pension Schemes and Compensation Scheme (Wales) (Amendment) Order 2018 would correct that by allowing such survivors of qualifying firefighters in Wales to retain their entitlement to survivors' benefits if they remarry or form a new civil partnership. The amendment would also reinstate lost benefits to all such survivors who have remarried or entered into a civil partnership before 1 April 2015, with those being reinstated from that date.

- **Amending survivor benefits under the 2007 Pension Scheme (and as a result the 2014 Modified Scheme)**

The 2007 Pension Scheme currently requires scheme members to complete a nomination form as a precondition for paying survivor benefits to their cohabiting partners. The Supreme Court ruling in the case of [Brewster](#) found a similar rule in another pension scheme to be unlawful. Therefore, the Firefighters' Pension Schemes and Compensation Scheme (Wales) (Amendment) Order 2018 amends the provisions in the Firefighters' Pension Scheme 2007 to remove any requirement to complete a nomination form as a precondition of eligibility for cohabiting partners to receive a survivors' pension.

It is unlikely that there are many individuals affected by these rules in Wales, as firefighter deaths in service are very rare. Since the gender makeup of the workforce is predominantly male, it seems likely that most beneficiaries will be female, although we have no information about the sexuality of the workforce. The issue is also time-limited: all members of the 1992 and 2007 Schemes are now over 50 years old, and will probably retire in the next 10 years or so. So the changes will tend to benefit the spouses and partners of older firefighters, who may themselves be more likely to be older. The problems which the Order corrects do not exist in the 2015 Scheme, of which most younger firefighters are members.

The Order also makes other minor amendments to the 1992 and 2007 firefighter pension schemes.

2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

Fire and Rescue Authorities (FRAs) and trade unions representing firefighters are already aware of the amendments to firefighter pension scheme regulations through their representation on the Firefighters' Pension Scheme Advisory Board for Wales.

The consultation and Welsh Government's summary of responses will be published on the Welsh Government's website and circulated to FRAs, trade unions and other partners.

3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?

The policy changes are required due to an injustice in the current subordinate legislation; and to a judgment of the Supreme Court.

The evidence relating to the practical effect of the Order is satisfactory, with some unavoidable gaps. Firefighter deaths in Wales, from any cause, are very rare, normally less than five per year. Of those, this change would only have any effect if (a) a firefighter died in the line of duty rather than of natural causes; (b) s/he was married or in a civil partnership at the time; and (c) the surviving partner subsequently remarried or formed a new civil partnership. Information from the FRAs suggest that there are currently fewer than five such cases in Wales, although more could of course arise at any time.

The low number of deaths also makes it unlikely that there will be many survivors of members of the 2007 or 2014 pension schemes who will be affected by the amendments made in relation to the Brewster judgement. However, it is not possible to know this with any certainty, as those affected would not previously have been nominated as partners and thus would not be known to the FRAs.

Impact

Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the

protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).

Lack of evidence is not a reason for *not* progressing to carrying out an EIA. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
<p>Younger people</p> <p><i>(Children and young people, up to 18)</i></p>			✓	<p>People under the age of 16 cannot marry or form a civil partnership. While those aged 16 or 17 can, the likelihood of anyone being bereaved in the limited circumstances covered by the Order and then remarrying or forming a new civil partnership before reaching age 18 is very low indeed.</p> <p>The definition of a cohabiting partner within the 2007 Pension Scheme Order (long terms relationship usually means for a period of 2 years or more) means that it is highly unlikely that anybody under the age of 18 would be affected by amendments relating to the nomination of cohabiting partners.</p>
<p>People 18-50</p>			✓	<p>The changes affect pension schemes with members who are all aged over 50. Adults who</p>



				are or were in a relationship with a firefighter aged over 50 may be of any age, although they may be more likely to be older themselves. The changes would affect them all equally.
Older people (50+)			✓	

4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment			✓	The Welsh Government does not envisage any differential effects in practice on this group.
Hearing impairment			✓	
Physically disabled			✓	
Learning disability			✓	
Mental health problem			✓	
Other impairments issues			✓	

4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male	✓			The policy affects all qualifying firefighter members equally.

Female	✓			<p>The great majority of firefighters are male and the majority of their partners are probably women, so it seems likely that more women than men would be affected by the changes – although we have no information about the sexuality of the firefighting workforce.</p> <p>However, women and men who are bereaved would be treated in exactly the same way.</p>
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4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
			✓	The Order would apply equally to firefighters who are transgender and those who are not.

4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage	✓			Under the current provisions, benefits cease to be payable if

Civil Partnership	✓			<p>the surviving partner of a deceased firefighter remarries or forms a new civil partnership.</p> <p>The policy change will therefore have a positive impact based on marital / civil partnership status.</p> <p>The change in regulations removing the requirement to nominate cohabiting partners would not affect the existing entitlements of surviving partners who were either married or in a civil partnership. However, it would benefit those who were in long-term cohabiting relationships.</p>

4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy			✓	While, as noted above, the majority of beneficiaries may be likely to be women, pregnancy or maternity in itself would make no difference.
Maternity (the period after birth)			✓	

4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,			✓	The policy changes would affect people of all ethnic backgrounds identically. The Welsh Government does not envisage any differential effects in practice on these groups.
National Origin (e.g. Welsh, English)			✓	
Asylum Seeker and Refugees			✓	
Gypsies and Travellers			✓	
Migrants			✓	
Others			✓	

4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please	✓			Under the current legislation, a surviving partner who cohabits with another person without remarrying or forming a new civil partnership suffers no loss of entitlement to benefits under the 1992 pension scheme. This could amount to indirect discrimination on the basis of religious belief, where such beliefs

specify)				preclude cohabitation without marriage. The Order would correct that.
Belief e.g. Humanists			✓	
Non-belief			✓	

4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men			✓	The policy changes affect all qualifying firefighter members and their surviving partners equally, regardless of sexual orientation.
Lesbians			✓	
Bi-sexual			✓	

4.10 Do you think that this policy will have a positive or negative impact on people's human rights? *Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.*

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions			✓	Part of the rationale for the changes to survivor benefits is to address possible discrimination on the grounds of gender, marital status and religious belief. There are no other issues relating to Equality and Human

				Rights.

Equality Impact Assessment – Part 2

1. Building on the evidence you gathered and considered in Part 1, please consider the following:

1.1 How could, or does, the policy help advance / promote equality of opportunity?

For example, positive measures designed to address disadvantage and reach different communities or protected groups?

The Order corrects an anomaly which has significant effects on those caught by it. The number of such people is, though, very small; and the Order cannot be said to have any material wider social impact.

1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?

It is arguable that the current arrangements may amount to discrimination on the basis of marital status or (indirectly) religious belief. The Order would address that; but, as above, it cannot have any effect on discrimination, harassment or victimisation more generally.

1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?

As above, the effects of the Order and the underlying policy are too narrow to have any such impact.



2. Strengthening the policy

2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?

What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?

Not applicable.

2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.

(Please remember that if you have identified unlawful discrimination (immediate or potential) as a result of the policy, the policy must be changed or revised.)

Not applicable.

3. Monitoring, evaluating and reviewing

How will you monitor the impact and effectiveness of the policy?


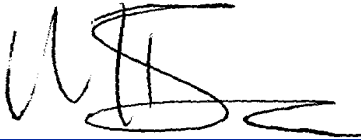
List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

The policy will be reviewed, as necessary, by a statutory Scheme Advisory Board, comprising employer and employee representatives, with an independent chair. The Firefighters' Pension Scheme Advisory Board for Wales is responsible for providing advice, on request, to Welsh Ministers, scheme managers and local pension boards in relation to the effective and efficient administration and management of the various pension schemes.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

4. Declaration

The policy does not have a significant impact upon equality issues

Official completing the EIA
Name: Cerys Myers
Department: Education and Public Services
Date: May 2018
Signature:

Head of Division (Sign-off)
Name: Martin Swain
Job title and department: Deputy Director Community Safety Division, Education and Public Services
Date: May 2018
Signature:

Review Date: May 2019

