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Dear Colleague

POLICE PENSIONS CIRCULAR No 2005/8-CIVIL PARTNERSHIPS

1. This circular outlines the effects that the Civil Partnership Act 2004 will have upon Human Resources issues and the changes to the Police Pension Scheme (PPS) from it coming into force on 5 December 2005. **Pensions Administrators should note that they are requested to include provision for civil partners in the PPS from the date the legislation came into force on 5 December 2005.** Details of what changes will be necessary to the Police Pension Regulations and the action administrators should take is set out below. A draft template letter for administrators to send to scheme members (i.e. active members; deferred pensioners; current pensioners; and those receiving survivor benefits) is attached at Annex A.

Background

2. Prior to 5 December 2005 same-sex couples had no way of gaining formal legal recognition for their relationship but as from that date they can have their relationship legally recognised. The Civil Partnership Act allows same-sex couples to make a formal, legal commitment to each other by forming a civil partnership. The major implication of this legislation is the need to treat a couple in a civil partnership in the same way as a married couple. It should be noted however that it is also a requirement of law that Marriage and Civil Partnership must be considered as separate and distinct from each other.
3. Important rights and responsibilities arise from entering a civil partnership. All officers and police staff should be aware of this new status both in connection with their dealings with each other, whether as colleagues or managers, and in their dealings with the public.
4. Implementation of the Act involves significant changes in many areas, for example in court rules, the registration service as well as training and guidance for employers. Provisions in the Act for parity with marriage include:
 - employment and pension benefits;
 - recognition under intestacy rules;
 - access to fatal accidents compensation;

- recognition for immigration and nationality purposes.
 - a duty to provide reasonable maintenance for a civil partner and any children of the family;
 - civil partners to be assessed in the same way as spouses for child support;
 - equitable treatment for the purposes of life assurance;
5. Civil Partnerships can be formed from 21 December 2005, apart from in exceptional circumstances when they will be able to be formed from 5 December. These exceptional circumstances are the same as exist to enable opposite-sex couples to marry without having to wait the minimum length of time, often in cases where one partner is likely to die within a very short period of time. The Act also allows for same-sex couples who have entered legally recognised overseas relationships to be treated as civil partners in the United Kingdom from 5 December. There will be a formal, court-based process for dissolution of a civil partnership.
 6. More information can be found on the DTI Women and Equality Unit's website <http://www.womenandequalityunit.gov.uk/civilpartnership/index.htm>. A booklet on the subject is available and can be found at <http://www.womenandequalityunit.gov.uk/civilpartnership/guidance.htm>. If you would like to order a free hard copy (or copies) of the booklet, please send an e-mail to publications@dti.gov.uk. You will need to provide your address and quote URN05/1485. Alternatively the telephone number to place your orders is - 08450150010 (again, please quote the URN number).

Impact on the PPS

7. Broadly, as of the 5 December 2005, all provisions available to married persons in the Police Pensions Regulations will also apply to those who formally register their civil partnership (or have already formed a recognised overseas relationship) on or after 5 December 2005. Government policy is to allow pensionable service accrued from 6 April 1988 to count towards surviving civil partner benefits. This date has been agreed upon to avoid periods of historic gender discrimination.
8. For the purposes of the PPS this means extending the provisions for surviving spouses to apply to surviving civil partners - but only back to 6 April 1988. Those women officers who up-rated their pre-1990 widowers' benefits would have that recognised for the purpose of their civil partner's survivor benefits.
9. While entitlement to a surviving civil partner's pension will be based on service from 6 April 1988, the actual pension awarded will depend on the survivor contributions made by the officer. This means that if a woman officer did not make survivor contributions between 1988 and 1990 the Guaranteed Minimum Pension applies.
10. The Civil Partnership Act has included amendments to the definitions of in-laws and step-relations so that they apply to relationships that arise as a result of a civil partnership. When the Adoption and Children Act 2002 comes into force on 30 December 2005, civil partners will be able to jointly apply to adopt a child, and acquire parental responsibility for their civil partner's child (subject to certain conditions). All these amendments will mean that children who are dependent upon civil partners will be treated in exactly the same way as those who are dependent upon spouses.
11. Other parts of the Police Pensions Regulations (although not an exhaustive list) where the civil partnership legislation will have application are: Part E (E3A to E10), Part I, and Part K (K5 to do with forfeiture).

12. The Statutory Instrument to implement the necessary changes to the Police Pensions Regulations is still being drafted and it will have retrospective effect from 5 December 2005. This circular is therefore being used to implement the main changes administratively with effect from 5 December 2005. **Pension administrators should therefore note that they must apply the provisions in this circular with effect from 5 December.**

13. There are three areas which are not straightforward and need further clarification, as follows:

Surviving civil partners' awards

14. It is proposed to amend the rules on survivor pensions ceasing on remarriage etc. to reflect the fact that surviving civil partners must have the same pension entitlements as surviving spouses (with care being taken over the extent to which the amendment regulations affect current widows and the future widows of current pensioners).

15. The amended rules will spell out the restrictions for each of the following categories:

- existing widows and the future widows of existing pensioners;
- the future surviving civil partners of existing pensioners; and
- the future widows and surviving civil partners of serving officers.

16. For existing widows and future widows of existing pensioners (i.e. those widowed or retired before 5th December 2005) the entitlement to a pension will also terminate on the formation of a civil partnership. This is in line with the need for civil partnerships to have the same rights and responsibilities associated with them as marriages.

17. For surviving civil partners, there will be a provision comparable to that for future widows of existing pensioners. (There is no need for a provision that matches existing widows as civil partnerships can only be registered after 5th December 2005.) For future surviving civil partners of existing pensioners the entitlement to a survivor pension will terminate on marriage, the formation of a new civil partnership or on cohabitation as civil partners (NB "cohabitation as civil partners" is defined in the civil partnership legislation).

18. For future widows and surviving civil partners of serving officers (i.e. those who die in service on or after 5th December 2005) and of future pensioners (i.e. those retired on or after 5th December 2005) entitlement will terminate on any of the following:

- on marriage or remarriage;
- the formation of a civil partnership or new civil partnership;
- on cohabitation as man and wife; or
- on cohabitation as civil partners.

19. It should be noted that under the New Police Pension Scheme, from 6 April 2006, survivor pensions will be life-long. Serving officers will have the opportunity, later in 2006, to transfer to the new scheme if they wish.

Pre/Post retirement civil partnerships

20. Special care will be needed in calculating the survivor benefits of the civil partners of officers with pensionable service which goes back before 1990 or 1988. Where the civil partnership was formed pre-retirement a surviving civil partner's pension will be based on the officer's **actual** service post 6 April 1988 (or 17 May 1990 if she is the civil partner of a woman who did not up-rate her survivor benefits).

21. Where the civil partnership was formed post-retirement, a surviving civil partner's pension will be based on a **fair proportion** of the officer's pensionable service. For male officers and female officers who have up-rated their survivor benefits, it is based on pensionable service which falls on or after 6 April 1988. The date changes to on or after 17 May 1990 for female officers who did not up-rate their survivor benefits.
22. This arises due to the fact that this is the current situation for widowers. The civil partnership legislation requires that where there is a case of pre-existing inequality, civil partners should only be given parity with the treatment (if any) of the less favoured spouse. This is to avoid constituting a fresh act of discrimination against the less-favoured spouse on the combined grounds of their sex and sexual orientation.
23. It is noted that this seems an inequity for pre and post-retirement widowers and civil partnership formation compared with widows. It is intended to make later amendments to the PPS to base further payments of survivor pensions upon a fair proportion of pensionable service, in cases where there is part of an officer's service which does not attract survivor benefits.

Up-rating pre-1990 service

24. Women officers who have not up-rated their pre-1990 service so far will be given another opportunity to do this. This is since those in same-sex relationships would have had no reason to want better widowers' benefits. It is proposed to offer the opportunity to up-rate their service between 1988 and 1990 on the same basis as previously offered. This exercise is planned for later next year.
25. Pensioners will not be able to up-rate their service between 1988 and 1990. Serving officers who want to make their pre-1988 service count for civil partners' pensions will have the option of transferring to the new Police Pension Scheme. All the pensionable service credited to a new member on admission to the new Police Pension Scheme will count for a civil partner's survivor benefits. It is envisaged that all serving officers will have the opportunity to opt to transfer to the new scheme in the autumn of 2006.

Yours sincerely



Jim Preston

Text for letter to pension scheme members re Civil Partnership

Dear

Civil Partnership Act and how it will affect the Police Pension Scheme

As you may or may not know, from 5 December 2005, same-sex couples can have their relationships legally recognised. The Civil Partnership Act allows same-sex couples to make a formal, legal commitment to each other by forming a civil partnership. This means that a couple in a civil partnership will have the same rights and responsibilities as a married couple.

One of the areas which have been affected by this legislation coming into force is regulations relating to pensions. Changes are being made to the Police Pension Scheme to make it compliant with the Civil Partnership Act.

Most of these changes involve adding provisions for civil partners so they have the same provisions as spouses. However, there are a few points which we would like to highlight.

1. The provisions for civil partners will be applied with effect from 6 April 1988, but no further back. This is Government policy and this date has been agreed upon to avoid periods of historic gender discrimination.

*This means that the provisions for surviving spouses will apply to surviving civil partners - **but only back to 6 April 1988**. Those women officers who elected to up-rate their widowers' benefits will have that election recognised for the purpose of their civil partner's survivor benefits. If you are a female officer with pre-1990 service who has not made such an election and would like to have another opportunity to up-rate your survivor benefits between 6 April 1988 and 16 May 1990, **let us know soon and if possible by 31 January 2006**.*

2. It is proposed to change the rules on **survivor benefits ceasing upon remarriage etc.** to include civil partnership and cohabitation as civil partners as appropriate. This is in line with the need for civil partnerships to have the same rights and responsibilities as marriages.

For current widows and future widows of current pensioners (i.e. those widowed or retired before 5th December 2005) the entitlement to a pension will terminate on any of the following:

- marriage or remarriage;*
- the formation of a civil partnership or new civil partnership; or*
- cohabitation as man and wife;*

For future surviving civil partners of current pensioners (i.e. those retired before 5th December 2005) the entitlement to a survivor pension will terminate on any of the following:

- marriage or remarriage;*
- the formation of a civil partnership or new civil partnership; or*
- cohabitation as civil partners.*

For future widows and surviving civil partners of serving officers (i.e. those who die in service on or after 5th December) and of future pensioners (i.e. those retired on or after 5th December 2005) entitlement will terminate on any of the following:

- marriage or remarriage;*
- the formation of a civil partnership or new civil partnership;*

- cohabitation as man and wife; or*
- cohabitation as civil partners.*

If you would like more information on how your police pension survivor benefits and entitlements might change upon formation of a civil partnership, please contact (name of local pension administrator/contact) on (appropriate contact details).

For more information on Civil Partnership in general, the Department of Trade and Industry Women and Equality Unit's website can be found at <http://www.womenandequalityunit.gov.uk/civilpartnership/index.htm>. A booklet on the subject is available and can be found at <http://www.womenandequalityunit.gov.uk/civilpartnership/guidance.htm>. If you would like to order a free hard copy (or copies) of the booklet, please send an e-mail to publications@dti.gov.uk. You will need to provide your address and quote URN05/1485. Alternatively the telephone number to place your orders is - 08450150010 (again, please quote the URN number).