

Pension forfeiture rules

Following London Mayor Sadiq Khan's requests for convicted murderer and former Met Police officer, Wayne Couzens' pensions to be forfeited and for pension forfeiture rules to be strengthened, Matthew Swynnerton explains the current rules and regulations to be navigated in achieving these goals

Wayne Couzens stripped of Met police pension; London Mayor Sadiq Khan calls for CNC pension removal

In a letter seen by *Pensions Age* to Secretary of State for the Department for Energy Security and Net Zero, Grant Shapps, dated 1 April 2023, Mayor of London, Sadiq Khan, called for Wayne Couzens to be stripped of his Civil Nuclear Constabulary (CNC) pension, having already secured the forfeiture of Couzens' Met police pension.

In 2021, Couzens was given a whole-life sentence for murdering Sarah Everard while employed by the Met Police, having since lost his bid to reduce his sentence at the Court of Appeal.

In the letter, Khan stated: "I applied for and obtained from the Home Secretary a certificate of forfeiture in relation to Couzens' pension with the Metropolitan Police Service (MPS). I note that Couzens joined the Civil Nuclear Constabulary (CNC) in 2011 as a constable. When he transferred to the MPS in 2018, he did not transfer his pension service. It remains there, and is not covered by the pension forfeiture certificate I was able to obtain as it sits outside the normal police pension regulations.

"It is my understanding that Couzens has approximately seven years' pension service with the CNC and is entitled to a deferred pension. I understand that the UKAEA, overseen by your department, is the pension authority for the CNC Combined Pension Scheme of which Couzens is a member. Whilst I understand the pension forfeiture arrangements are not straightforward, I seek your assurance that you will take all possible steps to ensure that Couzens is stripped of his pension. This is what the public would rightly expect..."

In Khan's letter to the Home Secretary, Suella Braverman, on 24 February 2023, also seen by *Pensions Age*, Khan called for the pension forfeiture rules to be strengthened, so that a criminal offence does not have to be committed 'in connection' with their service in order for an officer to lose their pension.

Wayne Couzens, prior to his conviction, was a Met officer and had previously worked in the Civil Nuclear Constabulary (CNC), guarding nuclear sites. Upon conviction, his Met pension was forfeited, and there are calls for the administrators of the CNC scheme to also forfeit his CNC pension.

Regulation 6(1)(c) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997 makes clear that any public service occupational pension scheme can be forfeited where (i) the member is convicted of an offence committed in connection with their service as a public servant, and (ii) a Minister of the Crown certifies that the commission of that offence has been gravely injurious to the interests of the state or is liable to lead to serious loss of

confidence in the public service.

With regards to the second criterion, on 3 April the government gave a statement that they support the recommendation that Couzens be stripped of his CNC pension. The legal question, therefore, is whether the offence was committed in connection with his service. It is certainly arguable if "his service as a public servant" covers the entirety of the service period, i.e. from starting at the CNC until the end of his time at the Met. There is a serious possibility, however, that it will be interpreted as the service to which the pension relates, meaning that there would have to be a connection between the crime and the CNC service. Interpreted this way, the legal basis upon which the pension can be forfeited is a lot less obvious.

Along with needing a legal basis, there must also be a power in the CNC scheme

rules to allow the administrator to act. At Rule 10.04(3)(b) of the CNC scheme rules it is made clear that it must be "an offence in connection with any employment to which this scheme applies" (emphasis added). This means that, even if the Forfeiture Regulations are interpreted widely, the administrators may not be empowered to take the action.

Some have suggested that, should it not be possible to forfeit the pension, the rules on forfeiture should be expanded. It is possible that this would now face hurdles by way of the European Convention on Human Rights, especially Article 1 of Protocol 1, the right to protection of property, which would need to be considered, including the impact on the innocent dependents of the convicted individual.

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