

Carter and another v Chief Constable of Essex Police

[2020 EWHC 77 \(QB\) Queen's Bench Division 21 January 2020](#)

1. THE HONOURABLE MR JUSTICE PEPPERALL:

1. Eric Carter has lived a remarkable life. Born on 9 November 1924, he served in the Royal Marines at the end of the Second World War and is one of the few surviving men who, with astonishing bravery, stormed the beaches under heavy enemy fire on D-Day. All who take for granted the freedom of living in a peaceful and democratic society owe him and his generation an enormous debt.
2. After the war, Mr Carter served as a police officer between 4 November 1948 and his retirement on 28 February 1977. Although he worked full time for another decade and then part-time for a further 3½ years, Mr Carter has now drawn his police pension for almost 43 years. Mr Carter married his first wife, Jean, in July 1944. She died in 1979 and Mr Carter married June in 1981. Despite marrying after Mr Carter's retirement from the police force, they have now been married for 38 years.
3. The police pension scheme offers the benefit of a reduced widow's pension upon an officer's death. Such benefits are, however, only payable under the scheme applicable in this case to any widow to whom Mr Carter was married at the time of his police service. The scheme was subsequently changed such that pensions are now payable to post-retirement widows in respect of their late husbands' service after 5 April 1978. Since, however, Mr Carter was married to Jean throughout his police career and retired before 5 April 1978, no widow's benefit will be payable to June in the event that she survives her husband.
4. Mr and Mrs Carter argue that such exclusionary rule is unlawful:
 - 4.1 First, Mrs Carter argues that it breaches her convention rights in that, should she outlive her husband, the rule will unlawfully discriminate against her as the post-retirement widow of an officer who retired before 1978.
 - 4.2 Secondly, the Carters argue that the rule indirectly discriminates against Mrs Carter on the ground of Mr Carter's age in that it operates disproportionately to the detriment of the widows of men over 90.

Conclusion- The case was dismissed