

Swale Borough Council

Housing Benefit

Modified Scheme

Policy

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1.0 Introduction

1.1 The rules about the way in which Housing Benefit entitlement is calculated are detailed within the Housing Benefit Regulations 2006 and subsequent amending legislation.

1.2 These regulations state that a weekly disregard of £10.00 applies to the following income:

(i) War Disablement Pensions

(ii) War Widow's Pensions.

1.3 The Social Security Administration Act 1992 also allows Councils the discretion to disregard up to 100% of those incomes in the calculation of Housing Benefit entitlement (referred to as the "local scheme").

2.0 Background

2.1 Where a customer who is eligible for Housing Benefit and is also in receipt of Income Support, Jobseeker's Allowance (Income Based), Employment and Support Allowance (Income Related), Universal Credit or Pension Credit (Guaranteed Credit), they are automatically "passported" to full Housing Benefit entitlement. Claims that are not "passported" are subject to a means test and these are affected by the decision to fully disregard certain war pensions.

2.2 Generally, the Council is fully reimbursed by the Department for Work and Pensions (DWP) for payments of Housing Benefit, and this is referred to as "subsidy". Subsidy payments are demand-led and are not subject to a fixed sum grant.

2.3 However, payments of Housing Benefit made under the local scheme are subject to different rules. Providing that expenditure does not exceed 0.2% of the overall subsidy claimed, 75% of payments made under the local scheme are subsidised by the DWP, with the Council meeting the remaining 25%.

3.0 Legal Implications

3.1 The Housing Benefit Regulations 2006 schedule 5 sets out the statutory income disregards for war pensions:

Sums to be disregarded in the calculation of income other than earnings. £10 of any of the following, namely –

- (a) A war disablement pension;*
- (b) A war widow's pension or war widower's pension.*

3.2 The Social Security Administration Act 1992 (section 134(8)) gives Councils the discretion to fully disregard war pensions in the calculation of Housing Benefit:

An authority may modify any part of the Housing Benefit scheme administered by the authority-

(a) so as to provide for disregarding, in determining a person's income (whether he is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole part of any prescribed war disablement pension or prescribed war widow's pension payable to that person;

(b) to such extent in other respects as may be prescribed, and any such modifications may be adopted by resolution of an authority.

3.3 The Housing Benefit and Council Tax Benefit (War Pension Disregards) (Amendment) Regulations 2009 sets out the types of war pensions that will fall to be disregarded under the local scheme:

1. The war disablement pensions prescribed are-

(a) any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

(b) any retired pay or pension payable, to a member of the armed forces of the Crown in respect of a disablement which is attributable, under-

(i) an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865,

(ii) the Army Pensions Warrant 1977,

(iii) any order or regulations made under section 2 of the Air Force (Constitution) Act 1917,

(iv) any order or regulations made under section 4 of the Reserve Forces Act 1996,

(v) any instrument amending or replacing any of the instruments referred to in

paragraphs (i) to (iv), or
(vi) any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or who have died in consequence of service as members of the armed forces of the Crown; and
(c) a payment made under article 14(1)(b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.

4.0 Purpose

4.1 The purpose of this policy is to specify how Swale Borough Council will operate the Local Scheme. The 100% disregard of funds received as War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme awards is intended to:

- i) Ensure that members of the armed forces who have been disabled during service or the widows, widowers or surviving civil partner of those who died in the service of their country, should not be penalised by having their pensions or payments made in relation to their service, taken into account in the calculation of their Housing Benefit entitlement.
- ii) Ensure income paid via these funding streams is treated consistently when assessing entitlement to Housing Benefit
- iii) Ensure continued alignment between treatment of these incomes under the Housing Benefit scheme set by the Department for Works and Pensions, and the Council's Council Tax Reduction scheme.

5.0 Claiming Modified Scheme Support

5.1 A claim does not need to be made by an applicant. The disregard will be applied automatically at the point of processing a claim's entitlement.

6.0 Period of disregard

6.1 The disregard will apply as long as the policy is in place and until the claim or relevant income ceases.

7.0 Review

7.1 This policy will be reviewed in line with any changes in legislation.