

Housing Benefit War Pension Disregard Policy (Modified Scheme)

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1. Introduction

- 1.1 The Housing Benefit Regulations 2006 make provision for the first £10.00 of income from War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme to be disregarded in any benefit assessment. The cost of this disregard is fully reimbursed to the council.
- 1.2 The Social Security Administration Act 1992 gives the council discretion to disregard any amount it chooses in addition to the statutory provision in accordance with its approved Modified Scheme.
- 1.3 Luton Council disregards 100% of funds received as War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme.

2. Objectives of this policy

2.1 The continued 100% disregard of funds received as War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme awards is intended to:

- to 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
- ensure income paid via these funding streams is treated consistently when assessing entitlement to Housing Benefit
- to ensure continued alignment between treatment of these incomes under the Housing Benefit scheme set by the Department for Works and Pensions, and Luton's own Council Tax Reduction scheme
- promote a clear and transparent assessment methodology
- provide clarity to reporting accountants on Luton's approval of the disregard

3. Administration of the scheme

3.1 A statutory disregard of £10 is required from current payments of War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme in accordance with the Housing Benefit Regulations 2006. These payments include:

- War disablement pension
- War Widows/widowers pension
- Guaranteed Income Payments (GIP's) under the Armed Forces and Reserve Forces Compensation Scheme (AFRFCS) payments
- Service Attributable Pension (SAP) injury or illness attributable to service on or before April 1975
- Any comparable payment paid by Government of a country outside Great Britain
- A pension paid under the law of the Federal Republic of Germany or Austria to victims of National Socialist Persecution

But **not** pre-1973 War Widow's Special Payments which are already disregarded in full.

4. Legislation

4.1 The Regulations providing for this are:

- The Housing Benefit Regulations 2006 paragraph 40(2) and schedule 5
- Housing Benefit (Persons who have attained the age qualifying for the State Pension Credit) Regulations 2006 paragraph 33(9) and schedule 5
- Sections 134 and 139 of the Social Security Administration Act 1992 provide the Council with the discretion to modify the Housing Benefit scheme by disregarding a further amount, or all, of specified war disablement pensions and payments. The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007 (as amended) prescribe which pensions and payments these are. See Appendix A.

5. Modified Scheme Policy

5.1 The Council will continue to disregard War Widows (Widowers)/War Disablement Scheme and the Armed Forces Compensation Scheme awards in full.

6. Governing legislation

6.1 The Housing Benefit Regulations 2006 paragraph 40(2) and schedule 5

6.2 Housing Benefit (Persons who have attained the age qualifying for the State Pension Credit) Regulations 2006 paragraph 33(9) and schedule 5

6.3 Social Security Administration Act 1992 Sections 134 and 139, which provide the council with the discretion to modify the Housing Benefit scheme by disregarding a further amount, or all, of specified war disablement pensions and payments. The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007 (as amended) prescribe which pensions and payments these are. See Appendix A.

7. Appendix A

“THE SCHEDULE Regulations 2 and 3 war disablement and war widow’s pensions PART 1 war disablement pensions

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(a);

(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 to service, under—

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

(ii) the Army Pensions Warrant 1977(c),

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

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

(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 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(f).

PART 2

War widow’s pensions

2. The war widow’s pensions prescribed are—

(a) any pension or allowance payable to a widow, widower or surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

(b) a pension payable, to a widow, widower or surviving civil partner of a member of the armed forces of the Crown in respect of death which is attributable to service, under—

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

(a) 2003 c. 1. Subsection (2) was inserted by section 19(4) of the Finance Act 2005 (c. 7).

(b) 1865 c. 73 (28 & 29 Vict). Section 3 was amended by the Armed Forces Act 2006 (c. 52), Schedule 16, paragraph 2 and by

the Armed Forces (Pension and Compensation) Act 2004 (c. 32), section 4.

(c) This is available from The Stationery Office.

(d) 1917 c. 51 (7 & 8 Geo 5). Section 2 was amended by the Armed Forces Act 2006, Schedule 16, paragraph 13.

(e) 1996 c. 14. Section 4 was amended by the Armed Forces Act 2006, Schedule 14, paragraph 26.

(f) S.I. 2005/439. 3

(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 have died in consequence of service as members of the armed forces of the Crown; and
- (c) a payment made under article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.”