

**CABINET
6 SEPTEMBER 2022**

THE TREATMENT OF WAR PENSIONS IN THE CALCULATION OF HOUSING BENEFIT

**Responsible Cabinet Member -
Councillor Scott Durham, Resources Portfolio**

**Responsible Director -
Elizabeth Davison, Group Director of Operations**

SUMMARY REPORT

Purpose of the Report

1. To reconfirm that war pensions should be fully disregarded as income when calculating entitlement to Housing Benefit.

Summary

2. Legislation allows Councils the discretion to disregard up to 100% of War Disablement Pensions and War Widow's Pensions in the calculation of Housing Benefit entitlement (referred to as the "local scheme").
3. These war pensions have been fully disregarded in the calculation of Housing Benefit since the Social Security Administration Act was introduced in 1992.
4. Given the length of time that the local scheme has operated in Darlington, it is therefore recommended that Members reconfirm that the prescribed War Disablement Pensions and War Widow's Pensions continue to be fully disregarded in the calculation of Housing Benefit.

Recommendation

5. It is recommended that Cabinet :-
 - (a) Consider the contents of this report.
 - (b) Reconfirm that war pensions (as defined in paragraph 18) should be fully disregarded as income when calculating entitlement to Housing Benefit

Reasons

6. The recommendations are supported as the Social Security Administration Act 1992 requires the Council to formally adopt any modification of the Housing Benefit scheme where the whole or part of any war pension is disregarded.

Elizabeth Davison
Group Director of Operations

Background Papers

- (i) The Social Security Administration Act 1992
- (ii) The Housing Benefit Regulations 2006
- (iii) The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007
- (iv) The Housing Benefit and Council Tax Benefit (War Pension Disregards) (Amendment) Regulations 2009

Anthony Sandys: Extension 6926

S17 Crime and Disorder	This report has no implications for crime and disorder
Health and Wellbeing	There are no issues which this report needs to address
Carbon Impact and Climate Change	There are no issues which this report needs to address
Diversity	There are no issues which this report needs to address
Wards Affected	All wards are potentially affected
Groups Affected	War pensioners in receipt of Housing Benefit
Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
Council Plan	This report supports the Council plan to ensure the most vulnerable residents of Darlington receive the support and assistance they require to maximise their independence and wellbeing
Efficiency	There are no implications
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

7. The rules about the way in which Housing Benefit entitlement is calculated are detailed within the Housing Benefit Regulations 2006 and subsequent amending legislation. These regulations state that a weekly disregard (not taken into account) of £10 applies to the following income:
 - (a) War Disablement Pensions
 - (b) War Widow's Pensions
8. However, 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").
9. War Disablement Pensions and War Widow's Pensions have been fully disregarded in the calculation of Housing Benefit since the Social Security Administration Act was introduced in 1992. In addition, the local Council Tax Support (CTS) scheme also contains a full disregard of these incomes and this has been in place since it was introduced in 2013. Council approves the CTS scheme on an annual basis.
10. Given the length of time that the local scheme has operated in Darlington, it is therefore recommended that Members reconfirm that the prescribed War Disablement Pensions and War Widow's Pensions continue to be fully disregarded in the calculation of Housing Benefit.

Financial Implications

11. Where a customer who is eligible for Housing Benefit and is also in receipt of Income Support, income based Jobseeker's Allowance, income related Employment and Support Allowance, 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.
12. 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.
13. 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%.
14. In 2021-22, The total Housing Benefit subsidy claimed before any addition in respect of the operation of the local scheme was £22,405,012. The total Housing Benefit expenditure in relation to the local scheme was £38,316. As this amount was within 0.2% of the overall subsidy claimed, 75% (or £28,737) was met by DWP subsidy payments, meaning the cost

to the Council for the operation of the local scheme in 2021-22 was £9,579.

15. The continued operation of a local scheme in Darlington will have no financial implications, as provision has already been made within the MTFP.

Legal Implications

16. The Housing Benefit Regulations 2006 schedule 5 sets out the statutory income disregards for war pensions, as follows:

“Sums to be disregarded in the calculation of income other than earnings

15. £10 of any of the following, namely-

(a) a war disablement pension;

(b) a war widow’s pension or war widower’s pension;”

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

“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.”

18. 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, as follows:

“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 to service, 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.*

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 Pension) 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,
(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 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005."*