



Milton Keynes
City Council

Discretionary Financial Assistance Policy.

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Version 3



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1.0 Background

The Milton Keynes City Council Discretionary Financial Assistance Policy (DFA) brings together four different funding streams:

- Discretionary Housing Payments (DHP)
- Local Welfare Provision (LWP) payments
- Discretionary Council Tax Reduction (DCTR) awards
- Local Scheme - Disregard of War Pensions

DHPs provide additional financial assistance with housing costs to those who are entitled to Housing Benefit (HB) or Universal Credit (UC). UC entitlement must include rental Housing Costs. The payment may be ongoing help with rent or one-off housing related costs such as moving home.

The **LWP** scheme helps vulnerable people by way of one-off payments for goods and services.

The **DCTR** scheme complements the main Local Council Tax Reduction Scheme and allows for a further reduction in the amount of Council Tax charged where exceptional circumstances exist.

War Disablement Pensions and Payments

The Housing Benefit Regulations and the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, currently require the Council to disregard £10 from any current payments of war disablement and war widows' pensions.

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 Council will disregard in full war widow and war disablement pensions when calculating entitlement to Housing Benefit and a Council Tax Reduction. These payments include:

- War disablement pension
- War widow's/widower's pension

And / or:

- Guaranteed Income Payments (GIPs) under the Armed Forces and Reserve Forces
- Compensation Scheme (AFRFCS) payments

- Service Attributable Pension (SAP) injury or illness attributable so service on or before April 1975
- any comparable payment paid by the 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.

NB but **not** pre-1973 War Widow's Special Payments, which are disregarded in full. Any amount included within the pension for attendance/mobility allowance is also disregarded in full.

2.0 Statement of objectives

The aim of the policy is to enable our most vulnerable residents, who cannot access any other support, to sustain their home, health, family, and security.

The assessment of applications is part of a holistic approach to prevent homelessness and help MK citizens who are in a short-term crisis get back on track. This is achieved through the provision of additional financial support with rent or Council Tax, goods, food vouchers, electricity vouchers, signposting, support, etc., where such support is likely to move an applicant towards a sustainable solution.

The policy is aimed at those who have been most impacted by the Government's Welfare Reform Agenda.

In addition to considering financial assistance, applicants are signposted to advice and guidance relevant to their needs, linking them with Statutory Services and other relevant organisations. The financial support is a means through which contact and communication with the applicant can be used to assist them and their families with their longer-term wellbeing.

3.0 Priorities

Many of the Welfare Reforms are conceptual and have a varied impact depending on individual circumstances, some of which are disproportionate. This policy is therefore aimed at assisting citizens who are most at risk rather than those simply in need.

This includes people at the edge of statutory intervention and those already in contact with Statutory Services.

The policy offers support where individuals or families are at risk of:

- Homelessness including tenancy at risk,
- Breakdown of family cohesion / stability (including domestic violence),
- Damage to Health,
- Loss of independence,
- Unemployment.

To target support effectively the focus is likely to be on certain disadvantaged groups, such as young people leaving care in the transition to adult life, people with disabilities or mental health issues.

4.0 Qualifying criteria for an award

Applicants do not have an automatic right to an award. The decision is entirely at the Council's discretion.

Each case will be treated on its own merits having regard to relevant legislation, Department for Work and Pensions (DWP) guidance, the budget position of the schemes and the Council's duty to the public purse.

Assessments are approached in two ways:

1. Using a true financial assessment of income/ savings, access to assets and essential outgoings, to establish:
 - a. If the applicant is experiencing financial crisis and
 - b. That the support will enable the applicant to reach a long-term solution that is not reliant on discretionary payments or is the only viable long-term solution.

Or

2. A health and welfare assessment based on a person's ability to cope with day-to-day financial matters aimed at alleviating mental health pressures, personal crises, and difficult events.

Awards will not be made where any of the following apply:

- The situation can be resolved by some other legitimate means,
- The applicant is excluded from receiving welfare benefits based on immigration status,
- The situation arose because of benefit fraud,
- The Council deems that the person has been culpably neglectful in relation to their circumstances,
- The Council deems that an award is unlikely to assist in providing a significant and sustainable reduction in one of the risks set out in section 3 of this policy.

Due to limited finances and to ensure that awards benefit the Milton Keynes community, Local Welfare Provision funded awards will only be considered if:

- The applicant can demonstrate a settled residence in Milton Keynes or has been placed in housing outside the area by Milton Keynes City Council or, in the case of someone leaving prison or care or is fleeing domestic violence, be about to move into Milton Keynes.
- In exceptional situations, an award may be made where the policy's eligibility criterion is not met but an award would comply with the DFA policy's overall aims and are within the law. This may include but is not confined to payments made under powers conferred by section 13A(1)(c) of the Local Government Finance Act 1992, which allows a billing authority to reduce the amount of Council Tax chargeable to alleviate pressure on individuals or communities in crisis situations for example, where a disaster, such as flooding has occurred. (Appendix 1).

5.0 Applications

An application needs to be made to access the different types of assistance. The team administering the scheme will access whichever funds are most appropriate for the customer and more information may be requested.

Wherever possible, MKCC will link in with trusted partners, who can signpost applicants to the scheme or make applications and recommendations on a person's behalf.

Where the law does not specify that an application must be made, Council Officers may identify cases where a payment would mitigate a risk and no application will be required, except in the cases of DHPs as they require a person to make a claim.

Each applicant may be asked to supply reasonable supporting evidence. This may include, but is not limited to:

- Income & expenditure statements, including details of any savings or capital
- Bank statements
- Utility and household bills
- Medical evidence if relevant

6.0 Reconsiderations, Reviews and Appeals

A review of a decision or appeal can only be considered on the basis that the decision maker has not correctly applied this policy. Where an applicant is aggrieved by a decision, but the basis of the disagreement is not that the policy was incorrectly applied, there is no grounds for an appeal or review.

Where an applicant does not believe this policy has been applied in relation to a request for a Discretionary Council Tax Reduction, the appeals procedure is as prescribed by Section 16 of the Local Government Finance Act 1992, details of which can be found in Appendix A.

Where a decision is in respect of a Discretionary Housing Payment, Local Welfare Provision payment, or War Widows Pension, there is no statutory right to an appeal. Judicial review is available on points of law.

In the interests of fairness, the Council will operate the following internal procedure:

- **Level One Reconsideration:** An applicant (or their representative) can ask for an explanation of decision at any time. They can ask for the original decision to be looked at again if they have additional information that they believe might alter the decision or if they believe that information they have already submitted has been overlooked or misunderstood. This reconsideration will normally be dealt with by the original decision maker.
- **Level Two Review:** If the applicant (or their representative) believes that the decision maker has not correctly applied this policy, they can ask for their concerns to be examined by a more senior officer. The second officer will look at the reasons for the decision, whether it complies with this policy and decide if any changes should be made to the decision.

An applicant also has the right to take the matter up with a local Councillor who can also consider if the policy has been correctly applied.

A request for a reconsideration or review will not be a complaint and will therefore not follow the Council's complaint procedure.

Complaints involving the quality of service will be dealt with separately under the council's complaints procedure. The officer handling the complaint will not reconsider or review the outcome of the application.

7.0 Fraud, error, and overpayments

Any overpayment created as a result of the discretionary support listed within this policy can be recovered if it is deemed by the Council to be made because of a misrepresentation or failure to disclose a material fact either intentionally or otherwise. If the council suspects that fraud may have occurred, the matter will be investigated as appropriate, and this could lead to criminal proceedings.

Contact details:

Discretionary Housing Payments

DHPBenefits@milton-keynes.gov.uk

T: 01908 253040

Local Welfare Provision

lwp@milton-keynes.gov.uk

T: 01908 253040



8.0 Appendix A - Discretionary Hardship Scheme

Introduction

Section 13A(1)(c) of the Local Government Finance Act 1992 empowers a billing local authority as follows:

1. Where a person is liable to pay Council Tax in respect of any chargeable dwelling and any day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.
2. The power under subsection 1) above includes power to reduce an amount to nil.
3. The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

Milton Keynes City Council operates a Discretionary Hardship Scheme under S13A(1)(c).

Classes of reduction

1. If the Director of Finance and Resources decides that, based on an application and/or recommendation, a specific class of reduction should be proposed, this should be submitted to Cabinet for full consideration. Cabinet shall make decisions in respect of the creation, amendment, review or cancellation of any class of reduction.

Determining an application

When determining an application, consideration will be made to:

- Any application should be one of last resort and any entitlement to council tax support, discounts or exemptions must have been explored prior to an application being made
- Whether advice about a debt relief order or involuntary arrangement has been sought
- There must be evidence of hardship or personal circumstance that justifies a reduction in Council Tax Liability
- Applications will only be granted in exceptional or unforeseen circumstances that threaten a taxpayer's ability to discharge their liability for council tax or may threaten their ability to stay in their home. For example, but not limited to; a flood or fire which means you are unable to live in the property or where a council taxpayer faces sudden financial hardship they could not have expected.
- The Council Taxpayer must not have access to assets, any equity on owned property, excess income or savings that could be realised and used to pay Council Tax

- If the Council Tax account is in arrears, the Council must be satisfied that non-payment was not due to wilful refusal or culpable neglect to pay the Tax.
- The payment record history of the Council Taxpayer
- Relief will only be applicable to the council taxpayer's primary home, The Council will consider applications on both occupied and unoccupied properties as long as the property that is applying for the relief is the taxpayer's main home, main residence. For example, a taxpayer's main home has been subject to fire or flood, and they have had to move to a temporary residence. We will not accept applications for relief on second homes or properties that are let out to tenants.
- There is a financial implication to awarding discounts under S13A, as the Council must fund the cost of all awards from its own resources. Therefore, awards must meet the underlying principle of offering value for money to council taxpayers within Milton Keynes.
- In the case of an empty property premium charge, you must also be able to demonstrate you have exhausted all reasonable steps to either re-occupy the property or market the property for sale or rent.

Awarding Discretionary Hardship relief

In deciding whether to make an award under Section 13A, we will have regard to the applicant's circumstances. In order to do this, each applicant may be asked to supply reasonable supporting evidence. This may include, but is not limited to:

- Income & expenditure statements, including details of any savings or capital
- Bank statements
- Utility and household bills
- Medical evidence if relevant
- Sources of credit such as credit cards, loan arrangements and overdraft facilities.
- In addition to the above in the case of a council tax premium charge - evidence that shows you are actively marketing the property for sale or rent and/or evidence as to why the property cannot be re-occupied.

Amount of relief

The amount of relief to be awarded will be at the Council's discretion and will take into consideration the amount of debt and the extent to which the guidelines are met.

In the case of a council tax premium charge the amount of relief will be capped at the amount of the premium charge applicable. This would in effect remove the premium charge for a set amount of time leaving 100% charge payable and will be reviewed on an ongoing basis.

Award period

The relief will only be granted to a maximum of the end of the tax period to which it is claimed and will not automatically continue to reduce a future year's liability. The relief is

intended as short-term assistance only and should not be considered a way of reducing the council tax long term.

All awards will be made by crediting the award value to the council tax account to which it applies. If this credit results in a refund being due, the Council will consider these in the usual manner.

How to claim Discretionary Hardship relief

Application forms will be provided to customers, upon request.

Where information or evidence requested has not been received within one calendar month, the Council will determine the application on the basis of the evidence and information on its possession. The Council may refuse to award discount where lack of this information and evidence does not enable the Council to reach an informed decision regarding the applicant's circumstances.

Premium charges for long term empty properties and second homes

As the premium charge is applied to empty properties or properties which are not a person's primary home, these will not usually be considered under the Hardship scheme. The council will however consider applications from customers in relation to the premium charge in the following circumstances:

- where the liable party will suffer from financial hardship resulting from the premium charge
- where the liable party has exhausted all reasonable steps in order to re-occupy the property or market the property for sale or rent

A full application under the Discretionary Hardship scheme will need to be submitted with the applicable evidence provided.

Review process

Discretionary Hardship awards are administered under s13A of the Local Government Finance Act 1992 and are subject to a statutory appeals process. However, in the first instance, the Council will accept a taxpayer's request for a reconsideration of a decision where the Council has not awarded a discretionary relief or where the taxpayer feels the award should be increased.

Requests for reconsideration should be:

- Made in writing to the Council Tax department, counciltax@milton-keynes.gov.uk
- Received within 21 days of receipt of the initial decision for the discretionary relief
- Include full reasons for the reconsideration request.

Upon receipt of a request for reconsideration, the Council will consider whether the customer has provided any additional information against the criteria to justify a change in decision.

If after receiving a reconsideration decision, a customer still disputes the decision, they can appeal to the [Valuation Tribunal](#).

Overpayments

If the Council becomes aware that the information contained in an application for a Discretionary Hardship award was incorrect or that relevant information was not declared, either intentionally or otherwise, the Council may seek to recover the value of any award made as a result of that application. Where this is the case, the award will be removed from the relevant council tax account and any resulting balance will be subject to the normal methods of collection and recovery applicable to such amounts.

Fraud

The Council is committed to the fight against fraud in all its forms. Any applicant who tries to fraudulently claim a Discretionary Hardship award might have committed an offence under the Fraud Act 2006. If the Council suspects that fraud may have occurred, the matter will be investigated as appropriate, and this could result in criminal proceedings.

Equalities statement

Milton Keynes City Council is committed to equality and fairness. Equality is about ensuring that people are treated fairly, given fair chances and to ensure equality of opportunity for all within the district; especially equality of access to the services we provide across different members of our communities. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council. This incorporates everyone, regardless of their race, gender, age religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.

9.0 Appendix B

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.

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(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.”.



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