



HILLINGDON
LONDON



Council

To all Members of the
Council

Date: THURSDAY, 17 JANUARY
2013

Time: 7.30 PM

Venue: COUNCIL CHAMBER -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

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Published: Wednesday, 9 January 2013

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Agenda

Prayers

To be said by the Reverend Dr June Hughman

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- 2** Minutes 1 - 16
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- 3** Declarations of Interest
To note any declarations of interest in any matter before the Council
- 4** Mayor's Announcements
- 5** Report of the Head of Democratic Services 17 - 20
- 6** Council Tax Base 2013/2014 21 - 28
To consider the annual report on the Council Tax base 2013/2014
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To consider the recommendations of Cabinet regarding the policy
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To consider Motions submitted by Members in accordance with Council Procedure Rule 12

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Minutes

COUNCIL

8 November 2012

Meeting held at Council Chamber - Civic Centre,
High Street, Uxbridge UB8 1UW

	<p>MEMBERS PRESENT:</p> <p>Councillors: David Allam Lynne Janet Gardner Douglas Mills Allen Roshan Ghei Richard Mills Tim Barker Dominic Gilham John Morgan Richard Barnes Raymond Graham Susan O'Brien Josephine Barrett Paul Harmsworth Mary O'Connor Jonathan Bianco Shirley Harper- David Payne Lindsay Bliss O'Neill Ray Puddifoot Wayne Bridges John Hensley Andrew Retter Mike Bull Henry Higgins John Riley Keith Burrows Patricia Jackson David Routledge Paul Buttivant Phoday Jarjussey Avtar Sandhu George Cooper Sandra Jenkins Robin Sansarpuri Judith Cooper Judy Kelly Scott Seaman- Philip Corthorne Peter Kemp Digby Brian Crowe Mo Khursheed David Simmonds Peter Curling Kuldeep Lakhmana Brian Stead Catherine Dann Eddie Lavery Michael White Jazz Dhillon Richard Lewis David Yarrow Janet Duncan Anita MacDonald Neil Fyfe Carol Melvin</p>
	<p>OFFICERS PRESENT: Hugh Dunnachie, Fran Beasley, Jean Palmer, Linda Sanders, Paul Whaymand, Raj Alagh, Mark Braddock, Trevor Langworth, Lloyd White and Steven Maiden.</p>
<p>27.</p>	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies for absence were received from Councillors East, Baker, Benson, Brar, Garg, Major and Nelson.</p> <p>Councillor Khursheed</p> <p>On behalf of all present, the Mayor and the Leader of the Council welcomed Councillor Khursheed back to the Council after his recent illness and wished him a swift recovery.</p> <p>Councillor Khursheed thanked the Mayor, officers, the Leader of the Council and Members for their warm wishes throughout his illness. He also thanked Harefield Hospital for their outstanding care and their ongoing treatment.</p>
<p>28.</p>	<p>MINUTES (<i>Agenda Item 2</i>)</p> <p>RESOLVED: That the minutes of the meeting held on 6 September 2012</p>

	be agreed as a correct record.
29.	<p>MAYOR'S ANNOUNCEMENTS (<i>Agenda Item 4</i>)</p> <p>The Mayor announced the death of Alderman Bernard Joseph Brown on 13 October 2012 aged 96. Mr Brown had been Mayor of the London Borough of Hillingdon in 1969, Master Fletcher, Sheriff and Chief Commoner of the City of London. Those present observed a one minute silence.</p> <p>The Mayor reminded Members that Sunday 11 November 2012 was Remembrance Sunday and encouraged them to attend their local memorial services.</p>
30.	<p>PUBLIC QUESTION TIME (<i>Agenda Item 5</i>)</p> <p>5.1 QUESTION FROM MR IAN BROOKS OF KENT GARDENS, EASTCOTE TO THE CABINET MEMBER FOR PLANNING, TRANSPORTATION & RECYCLING – COUNCILLOR BURROWS</p> <p>“There is legislation in place to restrict the movement of lorries during the night to reduce noise pollution in London. Whilst 28 out of 32 London boroughs subscribe to the London Lorry Control Scheme the London Borough of Hillingdon does not. What alternative enforcement regime is the London Borough of Hillingdon proposing to implement in order to secure compliance with the London night time lorry ban?”</p> <p>Councillor Burrows responded that the London Lorry Control Scheme, aimed at restricting the overnight use of larger heavy goods vehicles, operated across the whole of Greater London. The scheme had roughly 480 enforcement sites visited by just five Enforcement Officers on a rotational basis. The London Borough of Hillingdon did not believe that this level of resource gave enough of a disincentive to lorry drivers. Special permits were also available to exempt certain operators from enforcement which further limited its effectiveness.</p> <p>Councillor Burrows noted that it was important to appreciate that the 4 other boroughs that did not subscribe to the scheme were all, like Hillingdon, in outer London. These boroughs had taken a broadly similar view that the main focus of the scheme was on enforcement in central London and, therefore, the annual subscription of approximately £10,000 would not provide value for money for residents.</p> <p>Councillor Burrows noted that the Council was working closely with Transport for London to assist with the development of a new pan-London Freight Journey Planner which would provide better travel advice, using recommended routes, which would ultimately benefit hauliers and residents alike.</p>
31.	<p>REPORT OF THE HEAD OF DEMOCRATIC SERVICES (<i>Agenda Item 6</i>)</p> <p>6.1 APPOINTMENT OF THE CHIEF EXECUTIVE</p> <p>Councillor Puddifoot advised that the Council’s Appointments Committee had recommended the appointment of Fran Beasley to the position of Chief</p>

Executive and Corporate Director of Administration.

Councillor Puddifoot expressed his personal thanks to the outgoing Chief Executive, Hugh Dunnachie who had served the Council in the position through 6 difficult years. He stated that Mr Dunnachie had led the Council extremely well throughout this period. He went on to note that Hugh left the Council in capable hands with Ms Beasley.

Councillors Simmonds, D. Mills, Curling and Khursheed echoed the Leader's comments and the Mayor thanked Mr Dunnachie on behalf of all the residents of the London Borough of Hillingdon.

Councillor Puddifoot moved, Councillor Simmonds seconded and it was:

RESOLVED: That Fran Beasley be appointed as Chief Executive and Corporate Director of Administration.

6.2 CHANGES TO COUNCIL MANAGEMENT STRUCTURE AND SCHEME OF DELEGATION TO OFFICERS

Councillor Puddifoot detailed recent changes made to the Council Management Structure and Scheme of Delegation.

Councillor Puddifoot moved, Councillor Simmonds seconded and it was:

RESOLVED: That:

- a) **Part 3 of the Constitution - Scheme of Delegation to Officers, as set out in Appendix B to the report be approved and**
- b) **the Head of Democratic Services be authorised to make further minor textual changes to the remainder of the Constitution where required to reflect the revised structure / job titles etc.**

6.3 PART 2, ARTICLE 7 OF THE CONSTITUTION – THE CABINET

Councillor Puddifoot asked the Council to note the changes to Cabinet portfolios as set out in the report. He thanked Councillor Higgins, who would be leaving the Cabinet, for his work as the Cabinet Member for Culture, Sport and Leisure. The portfolio for the Cabinet Member for Culture, Sport and Leisure would be deleted with effect from 1 December 2012. At this point Councillor Higgins would become the Chairman of the Executive Scrutiny Committee.

Councillor Higgins thanked all Members for their assistance during his time in the Cabinet which had been extremely successful.

Councillor Puddifoot moved, Councillor Simmonds seconded and it was:

RESOLVED: That: the changes to Cabinet Portfolios set out in the report be noted.

6.4 MEMBERSHIP OF COUNCIL COMMITTEES

	<p>Councillor Puddifoot moved, Councillor Simmonds seconded and it was:</p> <p>RESOLVED: That w.e.f 1 December 2012 Councillor Higgins replace Councillor Lavery as Chairman of the Executive Scrutiny Committee.</p> <p>6.5 URGENT IMPLEMENTATION OF DECISIONS</p> <p>Councillor Puddifoot moved, Councillor Simmonds seconded and it was:</p> <p>RESOLVED: That the Urgency decisions detailed in the report be noted.</p> <p>6.6 PROCUREMENT AND CONTRACT STANDING ORDERS</p> <p>Councillor Puddifoot thanked the Mayor for allowing this additional item to be considered at this meeting. In order to strengthen and provide added Member oversight within the Contract Standing Orders, it was suggested that an additional provision be included in the section 'Acceptance of Tenders and Financial Thresholds for the Authority'.</p> <p>Councillor Puddifoot moved, Councillor Simmonds seconded and it was:</p> <p>RESOLVED: That Part 4, Schedule H of the Constitution be amended to include the following provision:</p> <p style="padding-left: 40px;">6.5 Where individual orders for goods, works or services are placed with a single contractor independently of each other and the cumulative value over the period of a financial year moves between the authorisation levels in Standing Orders 6.3, officers should seek the necessary approval in accordance with the total cumulative value.</p>
32.	<p>HILLINGDON LOCAL PLAN (<i>Agenda Item 7</i>)</p> <p>Councillor Burrows moved the recommendations as set out in the Order of Business. This was seconded by Councillor D Mills and, following debate (Councillor Duncan), it was:</p> <p>RESOLVED: That:</p> <ul style="list-style-type: none"> a) The revised text detailed in Appendix A of the report and included in the "Hillingdon Local Plan: Part One – Strategic Policies" be adopted as Council policy; and b) The 2007 Saved Unitary Development Plan policies approved by the Cabinet at its meeting on 27 September 2012 be adopted as the "Hillingdon Local Plan: Part Two", pending the preparation and adoption of site specific allocations, development management policies and a policies map.
33.	<p>MEMBERS' QUESTIONS (<i>Agenda Item 8</i>)</p> <p>8.1 QUESTION SUBMITTED BY COUNCILLOR GARDNER TO THE CABINET MEMBER FOR SOCIAL SERVICES, HEALTH & HOUSING</p>

– COUNCILLOR CORTHORNE

“In view of the declining amount of affordable decent housing for Hillingdon residents across the whole Borough, will the Cabinet Member responsible put 'residents first' and support the National Housing Federation's "Yestohomes campaign" for more council housing and in doing so agree to examine the possibilities of providing affordable decent housing across the whole borough, in a housing programme that will secure affordable decent homes for Hillingdon residents and their families and give the council a financial return on its investment and provide jobs and training for its unemployed residents?”

Councillor Corthorne advised that he was aware of the National Housing Federation's campaign to improve access to housing for people who were in work but could still not afford their housing costs.

Councillor Corthorne noted that the housing market in general faced an uncertain future and the funding regime for social housing had been subject to considerable change. The Council was working creatively with developers and registered providers to ensure that the various sources of available funding and subsidy were brought together to provide the affordable housing needed. 1,700 new affordable homes had been built in the Borough over the previous four years, exceeding the Council's London Plan targets.

The Council was putting forward its own land to provide affordable homes. In the previous year more than 100 homes were directly developed by the Council. Land was also transferred to housing associations to deliver more affordable or supported homes. Extra Care was housing which freed up affordable homes as well as preventing people going into residential homes, and the Authority now had 95 affordable Extra Care flats. The Council also had a good record of providing low cost homes ownership properties which had, since April 2012, 147 completions.

As well as its good record on the provision of new affordable homes, Hillingdon had also delivered other innovative solutions to help people own their own homes, with the development of reduced equity flats such as those over the Ruislip Manor Library and the First Time Buyer Initiative which had helped 183 young people living in the borough into home ownership since 2008.

Councillor Corthorne concluded that the Council was looking at ways to do more - to take advantage of new freedoms associated with the Housing Revenue Account, for example, to fund the development of supported housing and of affordable homes for Hillingdon families. Any such development would be planned on a prudent basis to take account of external funding sources and to provide maximum benefit in terms of employment and training opportunities.

Councillor Gardner, by way of supplementary question, asked whether Councillor Corthorne would agree that as the gap between supply and demand continued to grow at an alarming rate, rents would increase, house prices would rise yet again, and as a consequence HB payments would increase for those in work, but unable to pay the obscene rents charged by private landlords? What would happen to those on average incomes who

could not afford to buy or afford to rent?

Councillor Corthorne advised that he would provide a written answer to the question. The response was subsequently provided as follows:

The Council is aware from research that the number of households needing an affordable home is far in excess of the supply of additional affordable homes in the Borough. That research found that the average household income was £27,232 and that most households on low incomes who can't afford market rents can afford only a social rent – from the council or a housing association.

Mid and lower quartile private rents have also remained consistent since 2008 according to the Valuation Office Agency, although there is a difference between rents in the north and the south of the Borough. Local Housing Allowance rates take this into account. The rate at which LHA is paid will increase by CPI only from March 2013, ensuring that there will be no dramatic increase in payment rates, although the number of claimants in work may increase.

It's true that house prices in Hillingdon have been relatively stable since 2008 and have begun to rise. The price of the least expensive properties has risen by 3.1% since August 2011. It isn't the case that prices have risen dramatically and there is no sign of that. In some Wards, prices have fallen. Shared ownership schemes are a very popular way of getting a foot on the housing ladder and again prices fell in 2008 and have remained stable since then. Again, deposit finance and mortgage accessibility are the real problem.

The biggest problem remains access to mortgage funds for first time buyers and anyone with a less than perfect credit record. I agree that we need to keep an eye on the situation which has begun to change and to continue to do all that we can to support affected households and promote affordable housing supply from all available sources.

Rest assured that officers in the council are doing what they can to try to maximise the numbers of affordable homes in Hillingdon that are available for local people, whether they want to rent or buy.

8.2 QUESTION SUBMITTED BY COUNCILLOR DUNCAN TO THE CABINET MEMBER FOR FINANCE, PROPERTY AND BUSINESS SERVICES – COUNCILLOR BIANCO

“In view of the high costs of consultants employed by the Council, particularly during the past two years, can we see a breakdown of the financial justification for these high costs, especially when the improvements made are often the result of existing managers' suggestions, which could be listened to at no cost?”

Councillor Bianco responded that the Council's strategy from the outset had been to minimise the use of external resources and to transfer skills to permanent employees. He noted that there was a strategy in place to reduce the use of these resources over the remainder of the current financial year.

Many of the Council's employees had received further training in

transformation and were delivering this to colleagues and building on the Council's in-house capacity to ensure that consultants were used only where necessary. The Council currently had in excess of 100 of its own staff spending a significant proportion of their time helping to deliver the BID programme.

To supplement this in-house resource the Council had used a limited number of specialist interims with transformation experience and skills. The interims were used on a flexible basis to provide capacity and specific skills required as and when they were needed for particular transformation projects. They were directed by Council staff, did not cover established posts, were paid a daily rate and their use could be terminated at any point in time.

Councillor Bianco concluded that the amount the Council was spending on consultants needed to be put into context. Between £400,000-£600,000 per year was spent but this annually produced £20m in savings which he considered to be very good value for money. The £400,000- 600,000 also had to be compared against the Council's gross expenditure of around £800m per annum. The Hillingdon Improvement Programme was the envy of many authorities across the country. The Council was extremely proud of its success and value for money and were firmly committed to continuing it.

Councillor Duncan, by way of supplementary question, noted that some consultants appeared to be working on a permanent basis for Hillingdon Council. Did they fall within the tax category that the present government was advising all public bodies and authorities should examine and avoid?

Councillor Bianco advised that he would provide a written answer to the question. The response was subsequently provided as follows:

The Government has raised concerns about public sector bodies using people in substantive posts to operate as a limited company to avoid paying employers National Insurance, pensions contributions or to enable the individual to use the income tax system to their advantage. However, officers have reviewed the Council's use of consultants and can confirm that none are covering substantive posts. There are some 'non payroll' workers in substantive posts but these are all sourced and paid through the Council's agreed agency contracts and so their taxation affairs are dealt with by their agency. The Council does have a very limited number of self-employed consultants working on BID and other time limited projects. However, the Council does not accept that these individuals can be deemed to be our employees. The Council has no mutuality of obligation to them and is content that they do not meet the various criteria applied by HMRC to determine whether someone is deemed to be an employee and hence should be PAYE. As such the Council is content that it is appropriate for these individuals to take full responsibility for their own tax affairs.

8.3 QUESTION SUBMITTED BY COUNCILLOR BLISS TO THE CABINET MEMBER FOR EDUCATION AND CHILDREN'S SERVICES – COUNCILLOR SIMMONDS

“Can the Cabinet Member for Education tell us what provision for secondary education is being made for the increased intake of children now being

accommodated in expanded primary schools, particularly in the south of the Borough where the major increase has occurred and where more high density family housing is being built and proposed, placing further pressure on education places?”

Councillor Simmonds advised that, whilst there was currently a surplus of secondary places, there was very likely to be a need for additional places in future years. The 2011 pupil forecast showed a need for 7-8 forms of entry at secondary level. The forecasts were currently being updated and the revised forecast would provide a basis for developing the Council’s forward plan in consultation with partner organisations. The Council would be looking creatively at the different options for commissioning provision.

Councillor Bliss, by way of supplementary question, asked what difficulties were being faced in the Borough given the high proportion of Academies.

Councillor Simmonds advised that there were none.

8.4 QUESTION SUBMITTED BY COUNCILLOR ALLEN TO THE CABINET MEMBER FOR SOCIAL SERVICES, HEALTH & HOUSING – COUNCILLOR CORTHORNE

“Can the Cabinet Member for Social Services, Health and Housing update the Council about how things are progressing with Recommendation 1 from the Council’s Dementia Working Group report? This is concerned with dementia and the memory clinic.”

Councillor Corthorne advised that within the London Borough of Hillingdon, there was a limited specialist service provision in relation to the assessment and early diagnosis of people who may have had or went on to develop dementia. Currently there was a small amount of specialist memory assessment being carried out by Central and North West London NHS Foundation Trust (CNWL). However, with the current resource level and an increasingly ageing population it had reached the point where demand exceeded current service provision. These two factors had led to increased waiting times for assessment and diagnosis for memory assessment which had peaked at 9 months earlier in the year. There had also been a high number of complaints from service users and carers relating to the waiting time to receive a diagnosis.

As a result of the above, in early May 2012, additional resources had been secured from both the Primary Care Trust and CNWL to alleviate the issues in the short-term, until a more sustainable solution was achieved. This had enabled the service to prioritise the service users who had already been assessed but were still awaiting the outcome of the assessment. The waiting list for initial assessment continued to grow as the number of referrals increased.

A proposal to modernise CNWL older people’s services was currently going through an open consultation process. The key aim of the proposal was to re-invest finances from under utilised service areas i.e. in the bedded service. The money released would enable the service to provide an improved and timely Memory Assessment service but would not be enough to provide a full service as indicated in the current Dementia Service

Commissioning Guidelines.

In addition, CNWL were working with Commissioners looking at pathways around Intermediate Care and Rapid Response and how to include service users with dementia. The longer term provision of this was dependent on the ongoing funding of the Mental Health Liaison Service at The Hillingdon Hospitals NHS Trust being maintained.

Councillor Corthorne concluded that there was a great deal of collaborative work being undertaken to review existing Dementia Services across Hillingdon. This work was identifying care pathways for service users with dementia and gaps in current service provision. This work was being led by NHS Hillingdon Commissioners working with CNWL, Hillingdon Social Services and the Voluntary Sector. There was a collaborative Dementia Strategy in development with sign up from all partner organisations in Hillingdon. If the modernisation proposal was agreed, CNWL would act quickly to expand the Memory Assessment service effective from April 2013.

Councillor Allen, by way of supplementary question, asked why there was disparity between what the Council was saying about dementia treatment in Hillingdon and what residents were reporting?

Councillor Corthorne responded that this question was at odds with the information that he had available to him but that he would investigate further and provide a written answer to the question. The response was subsequently provided as follows:

The Hillingdon Memory Service is the responsibility of the Central and North West London NHS Trust (CNWL). They have stated that the service has always been a clinic based service with access only via the GP. The service has never taken direct referrals from the general public and if a service user is discharged, the route back into the service is also via the GP.

The Memory Service has, in order to meet increasing demand, recently changed the way it practices. The service is no longer able to treat service users on a long term basis. This is in line with NICE (National Institute for Clinical Excellence) guidelines which state that a person with dementia should be assessed, diagnosed and treated by a specialist team, however once they are stabilised they can then be monitored in Primary Care. This is also aligned to local GP shared care protocols, an agreement between the GP's and the Trust, to share the care of service users with dementia including prescribing medication once stabilised.

In response to these changes, all service users under the care of the Hillingdon Memory Service have been reviewed to identify those service users who could be considered for discharge back to the GP

Hillingdon does not currently have a fully commissioned Memory Service. Some time ago the CNWL Older People's service moved resources from the Community Mental Health Team to form a Memory Clinic to specialise in memory assessments. This however, only amounts to three outpatient clinics per week (9 hours).

The Trust acknowledges that the current level of service is not adequate and

is working jointly to resolve this. The Trust has just concluded a public consultation to make better use of current resources and intend to present the outcome of this to the Overview and Scrutiny Committee later this month. This will contain a proposal on how the local Memory Service can be enhanced. If this is agreed, the funding for the Memory Service provision in the borough would increase significantly by 2013/14.

I hope this goes some way to answer the concerns of the residents that approached you. In summary CNWL have had to change the way they work to meet national guidelines and the increased demand of service users needing assessments and diagnosis. They have not stopped operating the service and are hoping that soon they will be able to expand the service that is currently provided.

8.5 QUESTION SUBMITTED BY COUNCILLOR DHILLON TO THE CABINET MEMBER FOR IMPROVEMENT, PARTNERSHIPS AND COMMUNITY SAFETY – COUNCILLOR D.MILLS

“Could the Cabinet Member please inform Council if the current performance levels (calls answered / abandoned / customer satisfaction) of the contact centre have increased or decreased whilst outsourcing via consultants is explored?”

Councillor D. Mills responded that the Council had no plans to outsource the Contact Centre although work was underway to review how Housing Benefits were dealt with through the Contact Centre. He advised that 45,000 residents had now signed up to the self-service system which was improving services.

Councillor D. Mills advised that the Contact Centre dealt with over 50 different Council services varying from Blue Badges, refuse queries to Housing benefit queries. The Contact Centre was co-ordinated so that staff were trained to answer calls within groups of services and that the resource could be switched to deal with high call volumes and demands in individual service areas. There was no simple answer to the question, as performance varied across service areas. With regard to whether performance issues had arisen in recent months in any part of the Contact Centre, there had been very high call volumes related to Housing Benefits and addressing performance issues related to the Contact Centre for this service were an immediate priority.

Overall there were many initiatives underway to improve the performance of the contact centre including better deployment of existing staff resource during peak periods, better prioritising of calls, the introduction of an automated switchboard and better advertising of self-service alternatives to making calls to the Contact Centre. On this last point greater use of self-service would definitely reduce call volumes and therefore increase performance.

Councillor Dhillon, by way of supplementary question, asked whether the Council could provide year-on-year comparisons for the Contact Centre for the past 3 years and give further data for 3 months after changes had taken effect.

Councillor D. Mills advised that it would not be possible to provide such year-on-year comparisons across all areas of the Contact Centre but it would be possible to provide such figures for Anti-Social Behaviour calls. Subsequently, Councillor D Mills provided the following additional information.

ASBIT: Impact of BID Transformation Programme

In September 2010, as part of the Council's Business Improvement Delivery Programme, five services from across the Council that deal with anti-social behaviour were brought together into a single team. How we went about making these changes is set out below.

The aim of the review was to have a single point of contact for residents on anti-social behaviour issues and to increase resident satisfaction with the service by resolving inquiries more quickly through the implementation of new ways of working.

So how are we doing?

For residents

- *More cases are being resolved when residents first contact the Council.*

Additional training of contact centre staff during the summer of 2012 has led to an increase in the percentage of residents enquiries dealt with at first point of contact from This figure rose from 21% in January 2012 to nearly half (44%) in September 2012. This trend is continuing to rise with 77% of enquires in October 2012 dealt with at the first point of contact.

- *Higher Satisfaction with the way the Council and Police Deal with Anti-social Behaviour*

The Residents' Survey showed an increase in the percentage of residents who say the Council and Police deal well with anti-social behaviour increasing from 51% in 2010 to 57% in 2011. There is also a higher percentage of residents who feel safe living in Hillingdon, increasing from 65% in 2010 to 70% in 2011.

- *Cases are closed more quickly with residents satisfied with the outcome*

A survey of ASBIT customers conducted in June 2012 showed that:

- More than half (54%) of cases were closed within two weeks
- Twice as many (63%) were satisfied with the time it took to deal with the enquiry than were dissatisfied (28%)
- Twice as many (59%) were satisfied with the outcome than were dissatisfied (30%)
- 69% said they would recommend the service.

For the Council

- As a result of improved management of incoming demand by shifting to early resolution or sign posting to other services, the number of service requests allocated to ASBIT officers from April to October 2012 has reduced to 3,971 compared to 5,281 in the same period in

2011.

- Improved evidence gathering at the first point of contact is allowing cases to proceed to proper investigation more quickly. Performance data is now available to determine the average number of days to complete a case which is now 23.9 days up to September 2012 and can be tracked month to month from now on.
- This data also shows average number of days to complete a case for each officer, which ranges from 7.8 for the officer with the shortest average to 48.1 days for the officer with the longest average (who was also the officer with the most cases assigned). This enables better decisions to be made about workload allocation and performance targets to be set for officers to improve their performance to the standard of the best performing officers.
- ASBIT is meeting its performance target of 90% to contact residents who report cases to up-date them within target (usually 10 working days). More cases are being successfully closed with only around 10% having to be reopened within 6 months (target set was 25% of cases reopened).

Appendix 1: How did we go about setting up the new ASBIT Team?

As part of the Enforcement and Localities Business Improvement Delivery (BID) project, approximately 30 FTE were identified as undertaking frontline enforcement activities across five service areas in four former Directorates (DCEO, Housing, ECP and PCS) including:

- Street Scene Enforcement
- Hillingdon Housing Service (formerly Hillingdon Homes) Anti-social Behaviour Team
- Community Safety Tasking
- Noise Team
- Private Sector Housing (part).

Between September 2010 and March 2011, work was undertaken to bring the activities of these services together and introduce common ways of working. As part of this a new end to end process was developed:

- All phone calls were transferred to the Contact Centre rather than going through to the back office.
- Initial checks were made by Co-ordinators in the back office
- A team of Field based Officers based in the community was set up to more quickly respond to reported incidents
- A small team of specialists covering housing tenancy and leaseholders; streetscene and environmental nuisance; and Policy and procedures including liaison with key partners.

Since the service was first set up, it has continued to be developed and improved:

- Environmental Enforcement officers put in place to tackle littering in response to resident concerns in October 2011. This contract is currently under review, but if it is continued, online payment of feeds will be introduced.

	<ul style="list-style-type: none"> • Introduction of self service. Without promotion this service is now used to report 120 to 370 incidents of anti-social behaviour per month using this service. A new map based service so residents can see already reported incidents and action taken is now being rolled out. Promotion of this service will give residents more flexibility with reporting incidents at any time. • Additional training for Contact Centre Staff to enable more inquiries to be dealt with at the first point of contact and close down service requests. • Performance monitoring put in place to supervise team and officer performance and identify areas for improvement. <p>Next Steps</p> <ul style="list-style-type: none"> • Better use of performance data to deliver further service improvements. • Resident Satisfaction from Council tenants is being measured in conjunction with Hillingdon Housing Service. • Continue to encourage web based self service facility. • Explore automated updates for residents on progress (avoiding the need for follow up contact in person).
	<p>The meeting, which commenced at 7.30 pm, closed at 8.28 pm.</p>

These are the minutes of the above meeting. For more information on any of the resolutions please contact Lloyd White, Head of Democratic Services on 01895 556743. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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Minutes

SPECIAL COUNCIL

4 December 2012

Meeting held at Council Chamber - Civic Centre, High Street, Uxbridge UB8 1UW



Councillor Michael Markham (Mayor)
Councillor Allan Kauffman (Deputy Mayor)

	<p>MEMBERS PRESENT:</p> <table><tr><td>Councillors: David Allam</td><td>Janet Duncan</td><td>Eddie Lavery</td></tr><tr><td>Lynne Allen</td><td>Beulah East</td><td>Richard Lewis</td></tr><tr><td>Tim Barker</td><td>Neil Fyfe</td><td>John Major</td></tr><tr><td>Richard Barnes</td><td>Janet Gardner</td><td>Carol Melvin</td></tr><tr><td>Josephine Barrett</td><td>Sid Garg</td><td>Douglas Mills</td></tr><tr><td>David Benson</td><td>Roshan Ghei</td><td>Richard Mills</td></tr><tr><td>Jonathan Bianco</td><td>Dominic Gilham</td><td>John Morgan</td></tr><tr><td>Lindsay Bliss</td><td>Raymond Graham</td><td>June Nelson</td></tr><tr><td>Sukhpal Brar</td><td>Paul Harmsworth</td><td>Susan O'Brien</td></tr><tr><td>Wayne Bridges</td><td>Shirley Harper-O'Neill</td><td>Mary O'Connor</td></tr><tr><td>Mike Bull</td><td>John Hensley</td><td>Ray Puddifoot</td></tr><tr><td>Keith Burrows</td><td>Henry Higgins</td><td>Andrew Retter</td></tr><tr><td>Paul Buttivant</td><td>Patricia Jackson</td><td>John Riley</td></tr><tr><td>Philip Corthorne</td><td>Phoday Jarjussey</td><td>Avtar Sandhu</td></tr><tr><td>Brian Crowe</td><td>Judy Kelly</td><td>David Simmonds</td></tr><tr><td>Peter Curling</td><td>Peter Kemp</td><td>Brian Stead</td></tr><tr><td>Catherine Dann</td><td>Mo Khursheed</td><td>Michael White</td></tr><tr><td>Jazz Dhillon</td><td>Kuldeep Lakhmana</td><td>David Yarrow</td></tr></table>	Councillors: David Allam	Janet Duncan	Eddie Lavery	Lynne Allen	Beulah East	Richard Lewis	Tim Barker	Neil Fyfe	John Major	Richard Barnes	Janet Gardner	Carol Melvin	Josephine Barrett	Sid Garg	Douglas Mills	David Benson	Roshan Ghei	Richard Mills	Jonathan Bianco	Dominic Gilham	John Morgan	Lindsay Bliss	Raymond Graham	June Nelson	Sukhpal Brar	Paul Harmsworth	Susan O'Brien	Wayne Bridges	Shirley Harper-O'Neill	Mary O'Connor	Mike Bull	John Hensley	Ray Puddifoot	Keith Burrows	Henry Higgins	Andrew Retter	Paul Buttivant	Patricia Jackson	John Riley	Philip Corthorne	Phoday Jarjussey	Avtar Sandhu	Brian Crowe	Judy Kelly	David Simmonds	Peter Curling	Peter Kemp	Brian Stead	Catherine Dann	Mo Khursheed	Michael White	Jazz Dhillon	Kuldeep Lakhmana	David Yarrow
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	<p>OFFICERS PRESENT: Fran Beasley, Jean Palmer, Linda Sanders, Lloyd White and Morgan Einon</p>																																																						
34.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies for absence were received from Councillors Baker, G.Cooper, J.Cooper, Jenkins, Payne, Routledge, Sansarpuri and Seaman-Digby.</p>																																																						
35.	<p>DECLARATIONS OF INTEREST (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>																																																						
36.	<p>MOTIONS (<i>Agenda Item 3</i>)</p> <p>The Leader of the Council moved a motion to grant the Freedom of the Borough to Natasha Louise Baker of Manor Farm, Cowley in recognition of her inspirational achievements at the 2012 Paralympic Games where she had won two gold medals in the Grade II equestrian dressage events. The Leader reminded Members that the Freedom was the highest distinction in the power of the Council to bestow and was being awarded in recognition of the pride and honour Natasha's sporting achievements had brought to the people of Hillingdon.</p>																																																						

	<p>The motion was seconded by Councillor Curling and, after debate (Councillors Corthorne and Higgins) it was</p> <p>RESOLVED UNANIMOUSLY: That, under the provisions of Section 249 (5) of the Local Government Act 1972, Natasha Louise Baker of Manor Farm, St Peters Road, Cowley, in the County of Middlesex, be granted Honorary Freedom of the London Borough of Hillingdon, being the highest distinction in the power of the Council to bestow, in recognition of the pride and honour her sporting achievements have brought to the people of Hillingdon and that Natasha be admitted to the Roll of Honorary Freemen of the Borough.</p>
	<p>The meeting, which commenced at 7.30 pm, closed at 7.50 pm.</p>

These are the minutes of the above meeting. For more information on any of the resolutions please contact Lloyd White, Head of Democratic Services on 01895 556743. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Reporting Officer: Head of Democratic Services

(i) URGENT IMPLEMENTATION OF DECISIONS

RECOMMENDATION: That the Urgency decisions detailed below be noted.

Information

1. The Constitution allows a Cabinet or Cabinet Member decision to be implemented before the expiry of the 5 day call-in provided there is agreement from the Chairman of the Executive Scrutiny Committee to waive this. All such decisions are to be reported for information only to the full Council.
2. Recently the following decisions have been made using the Council's urgency procedures:
 - A joint decision by the Leader of the Council and Cabinet Member for Finance, Property and Business Services in relation to Field End Infant and Junior Schools on 1 November 2012.
 - A joint decision by the Leader of the Council and Cabinet Member for Finance, Property and Business Services in relation to Highfield Primary School on 5 November 2012.
 - A joint decision by the Leader of the Council and Cabinet Member for Finance, Property and Business Services in relation to Hamilton Court Flats on 14 December 2012.
 - Cabinet decisions made on 20 December 2012 in respect of the school expansion programme.
 - A joint decision by the Leader of the Council and Cabinet Member for Finance, Property and Business Services in relation to capital releases for the primary school permanent expansions on 24 December 2012.

BACKGROUND PAPERS: Decision Notices

(ii) AMENDMENT TO THE COUNCIL CONSTITUTION

RECOMMENDATION: That Part 4, Schedule C, 1.6 of the Constitution be amended to read as follows:

1.6 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be one quarter of the total number of Members of the Cabinet, or 3, whichever is the larger.

Information

1. Council at its meeting on 8 November 2012 noted a reduction in the size of the Cabinet from 8 Members to 7.
2. Accordingly, it is appropriate to give consideration to reducing the number of Members required for a meeting of the Cabinet to be quorate. Currently the figure required is one quarter of the total number of Members of the Cabinet, or 4, whichever is the larger. It is recommended that this figure be reduced to one quarter of the total number of Members of the Cabinet, or 3, whichever is the larger.

(iii) APPOINTMENT OF CHAMPION

RECOMMENDATION: That Councillor Gilham be appointed Council Champion for Information Technology.

Information

1. Members will be aware that currently the Council has appointed the following Champions:
 - Older Persons - the Leader of the Council
 - Disabled People & Equalities – Councillor Kemp
 - Carers - Councillor Major
 - Heritage and Built Environment – Councillor Routledge
 - Environment – Councillor Jenkins
 - Arts – Councillor Kelly
2. In accordance with Article 4 of the Constitution, Council is asked to consider the appointment of Councillor Gilham as Council Champion with responsibility for Information Technology under the generic Terms of Reference approved by full Council on 29 June 2006, (revised February 2009) with additional guidance approved by the Leader of the Council to reflect specific responsibilities associated with the growing importance of adopting new and improved methods of information technology within the authority.

(iv) PROGRAMME OF MEETINGS 2013/14

RECOMMENDATION: That the timetable of meetings for 2013/14 in Appendix A be approved and the Head of Democratic Services in consultation with the Chief Whip of the Majority Party be authorised to make any amendments that may be required.

Members should note that during the course of the year meeting times and dates of some meetings may change or additional meetings may be called in order for the effective conduct of the council's business.

London Borough of Hillingdon – Programme of Meetings 2013/2014

MEETING (and start time)	May	June	July	Aug'	Sept'	Oct'	Nov'	Dec'	Jan'	Feb'	Mar'	April	May
COUNCIL (7.30pm)	9*		4		12		7		16	20 (27)			8
CABINET (7pm)	23*	20	25		26	24	21	19	23	13	20	24	22
Central & South Planning Committee (7pm)	15*	13	2,24	13	4,24	16	5,28	17	8,30	18	12	3,22	14
North Planning Committee (7pm)	8*,30*	6,25	18	7,28	17	8,30	20	10	2,22	11	6,25	15	7,29
Whips Meeting (5pm)	7*		2		3		5		14	18 (25)			6
Pensions Committee (5.30pm)		19			24			11			26		
Investment Strategy Sub-Committee (2pm)			25			25			16				
Audit Committee (5pm)		25			26			12			11		
Domestic Violence Action Forum (2pm)			10			9			8			9	
Domestic Violence Steering Executive (10am)			1		16			2			24		
Petition Hearings with the Cabinet Member for Planning, Transportation & Recycling (7pm)	22*	19	17		18	16	13	11	22	19	19	16	21
Petition Hearings with the Cabinet Member for Finance, Property & Business Services (7pm)		26			11		6		15	26		23	
Licensing Committee (10am)		5			26				14			17	
Licensing Sub-Committee North (2pm)	24*	19	17	15	13	11	8	6	15	12	13	11	23
Licensing Sub-Committee South (10am)		7	5	1	4,27	23	20		3	7	7	3,23	
Registration & Appeals Committee (time tba) (Home-School Travel)					tba								
Executive Scrutiny Committee (at the rising of Cabinet)	23*	20	25		26	24	21	19	23	13	20	24	22
Social Services, Health & Housing Policy Overview Committee (7pm)		11		1	10	8	6	3	29	25	27	23	
Residents' & Environmental Services Policy Overview Committee (5.30pm)	29		31		25	17	14	4	21	26	26	30	28
Education and Children's Services Policy Overview Committee (7pm)		4	30		11	9	27		15	19	19	16	
Corporate Services and Partnerships Policy Overview Committee (7.30pm)	28		23		17	15	12		14	12	13	29	27
External Services Scrutiny Committee (6pm)		5	16		5	10	19		9	18	18 [#]	17	
Hillingdon Standing Advisory Council on Religious Education (7.30pm)		18					6				11		
Standards Committee (7pm)		12			3			4		26			
Member Training Days (10am-9pm)	tba					tba							tba

Dates with an asterisk * are dates approved in the 2012/13 programme
 Dates in brackets are reserve dates for the budget process

NB. Times may occasionally vary from those shown in first column
 # = Meeting starting at 5pm

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COUNCIL TAX BASE 2013/14 and BUSINESS RATES FORECAST 2013/14

Reporting Officer: Director of Finance

SUMMARY

This report sets out the proposed Council Tax Base and Business Rates Forecast for 2013/14 in accordance the legislation for approval by the Council. The Council is required to calculate both its Council Tax Base at 30 November 2012 by 31 January 2013 and the Business Rates forecast as at 30th September 2012 by 31 January 2013.

RECOMMENDATIONS: That

- a) **the report of the Director of Finance for the calculation of the Council tax Base and the Business Rates Forecast be approved;**
- b) **in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 the amount calculated by the London Borough of Hillingdon as its Council tax Base for 2013/14 shall be 87,446.**
- c) **the Director of Finance be authorised to submit the 2013/14 NNDR1 return to the Department of Communities & Local Government (CLG) and the Greater London Authority (GLA) in line with the business rates forecast contained within this report.**

COUNCIL TAX BASE

The calculation of the Council Tax Base is prescribed under the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 and represents the equivalent number of Band D Properties within the Borough. The relevant regulations have been changed for 2013/14 so that the tax base calculation now includes a deduction for the equivalent number of Band D properties relating to the proposed Council Tax Reduction Scheme (also being considered as part of this meetings agenda). This change means that local authority tax bases will be significantly lower than in previous years. However the reduction is compensated by a new Council Tax Support specific grant which the government has calculated based upon 90% of the Councils existing Council Tax Benefit expenditure. The Local Government Finance Settlement included a sum of £15,605k additional grant for Council Tax Support in 2013/14. The GLA will also receive a grant to reflect their element of the Council Tax Benefit.

The calculation of the Council Tax Base is based upon the following formula:

$$((H-Q+E+J)-Z) \times (F \text{ divided by } G)$$

Where:

H is the number of chargeable dwellings for the band on the relevant day less the number of exempt dwellings on that day;

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day;

E is a factor to take account of premiums, if any, to which the council tax payable, was subject on the relevant day;

J is the amount of any adjustment in respect of changes in the number of chargeable dwelling or premiums calculated by the authority;

Z is the total amount that the authority estimates will be applied as a result of the introduction of the Council Tax Reduction Scheme expressed as an equivalent number of chargeable dwellings in that band;

F is the number appropriate to that band which is used in determining the Band D equivalent (i.e. Band A =6, Band B = 7, Band C =8, Band D = 9, Band E = 11. Band F = 13, Band G = 15 and Band H = 18;

G is the number applicable to Band D i.e. 9.

Table 1 sets out a summary of the Council Tax Base for 2013/14 including the estimated collection rate and allowance made for contributions in lieu of Council Tax in respect of Forces Barracks and Married Quarters. The detailed calculation is set out in Appendix A to this report.

TOTAL NUMBER OF BAND D EQUIVALENT PROPERTIES	
Band	Number
A	316
B	2,403
C	13,417
D	34,275
E	18,468
F	12,193
G	6,685
H	706
Total	88,446
Equivalent number adjusted for the estimated collection rate (98%)	-1,769
Plus the contribution in Lieu of Council Tax in respect of Forces Barracks and Married Quarters	753
Council Tax Base for 2013/14	87,446

Estimated Collection Rate

It is a requirement of the Council Tax legislation for the Council to make an estimate of its collection rate in determining the Council Tax Base. The estimated collection rate is reviewed each year taking account of actual collection trends both in year and over a period of time. For 2012/13 the collection rate was set at 98.7%. For 2013/14 the collection rate needs to take account of the impact of the implementation of the Council Tax Reduction Scheme.

The Council's scheme proposes that the Council Tax reduction will be restricted to the maximum amount of support of 80% of Council Tax Liability. This will affect an estimated 13,230 claimants and the average additional cost per claimant would be £5.46 per week (based upon a Band D property). Approximately 50% of those affected by the new scheme currently pay no Council Tax, and it is therefore likely that collecting and enforcing the payment of the tax will be more difficult. It is therefore proposed to reduce the overall collection rate from 98.7% to 98% to reflect the expected shortfalls in collection.

Changes in Council Tax Base since 2012/13

In calculating the Council Tax Base for 2013/14 the authority has to estimate the various changes that will occur during the financial year. The changes to the calculation of the council tax base through the introduction of the Council Tax Reduction Scheme mean that a like for like comparison with previous years is not directly possible. However there is an estimated increase of 934 in the number Band D properties for 2013/14 on a like for like basis .

Section 106 of the Local Government Finance Act 1992

It is noted that this report falls within the provisions of the Local Government Finance Act 1992. Any member who is two or more months in arrears with his/her Council Tax must declare the fact and not vote on the recommendations in this report.

Impact on 2013/14 General Fund Budget

The factors with the most significant impact upon the Council Tax Base are the increase in the number of properties in the valuation list and the impact of the introduction of the Council Tax Reduction Scheme. The actual impact upon the General Fund budget for 2013/14 of the revised Council Tax base and the Council Tax Support Grant is a small negative variance of £37k compared with the position assumed in the draft budget that went to Cabinet in December 2012. Actual collection rates will be regularly monitored throughout the year for Council Tax.

BUSINESS RATES INCOME FORECAST

The Local Government Finance Act 2012 introduced a mechanism whereby Councils will retain a proportion of business rates as a revenue funding stream. As a result of these changes, the business rates income forecast for 2013/14 will have a direct impact upon the Council's finances and is therefore submitted to Council for approval alongside the Council Tax Base.

The Business Rates Income forecast for 2013/14 has been derived from the rateable values shown on the Council's local rating list as at 30 September. Following allowance for the current levels of both mandatory and discretionary reliefs, the Council anticipates a gross yield of £348,841,683. From this amount the Council will retain £598,040 to cover the costs of collection.

This gross yield has then been further adjusted to take account of the impact of appeals currently outstanding with the Valuation Office, expected losses in collection and anticipated movement in rateable value.

Allowance for appeals: Both outstanding and potential appeals represent a significant risk to business rates income with 1,225 appeals currently outstanding on 1,013 properties. While these appeals are estimated to put approximately £30m income at risk, a desktop review of these cases indicates a recommended level of provision of **£12,558,301** or 3.6% of total gross yield.

Losses in Collection: Further provision of **£4,360,521** or 1.25% of gross yield has been included in this forecast to take account of risks around non-collection. This figure is consistent with the actual collection rate of 98.93% achieved in 2011/12.

Other Movements/Growth: This forecast does not include any allowance for growth in the business rates base during 2013/14, as experience over 2011/12 and 2012/13 indicates the recession is impacting upon business rate income within Hillingdon.

Having adjusted for these risk items, the net yield from business rates within the borough is therefore forecast at **£331,324,821**.

The changes contained in the Local Government Act 2012 permits Local Authorities to retain a proportion of these locally collected business rates and the proportion has been set at 50%. However, the 50% retained locally within London will be shared with the GLA, 30% retained in Hillingdon and 20% going to the GLA.

Following deduction of these other shares, the Council's share of business rates income will be **£99,397,446**.

The Council is required to submit a certified NNDR1 return, containing a more detailed analysis of this business rates forecast, to both CLG and GLA by 30 January 2013. A recommendation to delegate authority to the Director of Finance to submit this return is included in this report.

Impact on 2013/14 General Fund Budget

The draft revenue budget approved by Cabinet on 20 December 2012 assumed that the Council would enter this new funding system in 2013/14 at a breakeven position. Following receipt of the draft Local Government Finance Settlement this position has now been confirmed, with this forecast representing an overall growth of **£118,461**.

The 2013/14 Local Government Finance Settlement included a Business Rates Baseline for the Council, which totalled **£99,278,985**. Any income above this level represents growth, which subject to a levy of 50%, will be retained by the Council

over and above the resources contained within the Local Government Finance Settlement.

Following the required levy payment, the Council will be able to retain an additional **£59,231** income in 2013/14. This sum will be included in the revised budget report to Cabinet for approval in February 2013.

Finance Implications

Financial Implications are included in the body of the report.

Legal Implications

The Borough Solicitor reports that the legal implications are contained in the body of the report.

Background papers: none

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Calculation of the Council Tax Base 2013/14

Appendix A

CALCULATION OF 'H' (The number of chargeable dwellings on valuation list)	+/-	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
Number of properties in the valuation list as at 01/12/12 (effective date) (Document C(1))	+	866	5,660	22,863	44,831	17,978	9,598	4,871	395	107,062
Less exempt Properties	-	54	324	751	1,200	554	326	506	17	3,732
LESS Properties re Disabled Persons relief - Drop a Band	-	0	8	51	238	136	105	42	22	602
PLUS Properties re Disabled Persons relief - Drop a Band	+	8	51	238	136	105	42	22	0	602
PLUS Value of 'H'	+	820	5,379	22,299	43,529	17,393	9,209	4,345	356	103,330
CALCULATION OF 'Q' (the value of discounts allowed)										
Number of properties entitled to single occupancy discount		486	3,509	10,635	11,398	4,095	1,848	640	19	32,630
Line above converted into common factor (i.e. actual number x 25%)	+	122	877	2,659	2,850	1,024	462	160	5	8,159
Number of properties entitled to a 50% discount as all residents disregarded		2	14	17	15	14	14	27	11	114
Line above converted into common factor (i.e. actual number x 50%)	+	1	7	9	8	7	7	14	6	57
Number of properties treated as a second home (i.e. unoccupied and furnished)		48	95	295	335	112	56	36	3	980
Line above converted into common factor (i.e. actual number x 25%)	+	12	24	74	84	28	14	9	1	246
Number of properties treated as long term empty		15	35	113	161	66	35	27	7	459
Line above converted into common factor (i.e. actual number x 0%)	+	0	0	0	0	0	0	0	0	0
LESS Value of 'Q'	-	135	908	2,742	2,942	1,059	483	183	12	8,464
CALCULATION of 'E' (Any premiums payable on empty properties)										
Calculation of Premiums applicable		0	0	0	0	0	0	0	0	0
PLUS Value of 'E'		0	0	0	0	0	0	0	0	0

Calculation of the Council Tax Base 2013/14

Appendix A

CALCULATION OF 'J' (Expected adjustments to number of properties on valuation list)										
New properties added to valuation list since relevant date	+	0	0	0	0	0	0	0	0	0
Properties completed but not yet shown on valuation list	+	1	70	123	31	27	9	17	11	289
Properties known to be on valuation list but to be taken out of list as demolished	-	0	0	4	10	0	0	12	0	26
Assumed increase in no of properties over year	+	0	3	56	47	34	41	5	6	192
Estimated change to discounts	+	0	0	0	0	0	0	0	0	0
Estimated changes to exemptions	-	10	58	135	216	100	59	91	3	672
	18.00%									
PLUS Value of J	+	-9	15	40	-148	-39	-9	-81	14	-217
Value of (H-Q+E+J)		676	4,486	19,597	40,439	16,295	8,717	4,081	358	94,649
CALCULATION of 'Z' (Band adjustment due to Council Tax Reduction(CTR) Scheme)										
Equivalent Band reduction based upon estimated monetary values of Council Tax Support Grant	-	203	1,396	4,503	6,164	1,185	276	70	5	13,802
Expected in year changes		0	0	0	0	0	0	0	0	0
Total CTR Discount =Z		203	1,396	4,503	6,164	1,185	276	70	5	13,802
Value of H-Q+E+J-Z		473	3,090	15,094	34,275	15,110	8,441	4,011	353	80,847
Convert to band D equivalent properties (F/G) where G = 9 and F = number shown in column.		6	7	8	9	11	13	15	18	
Band D Equivalent properties by Band		316	2,403	13,417	34,275	18,468	12,193	6,685	706	88,462
Value of ((H-Q+E+J)-Z)*(F/G)										
Collection rate allowance 2013/14		98.00%								-1,769
Estimated Collectable Band D Properties										86,693
Ministry of Defence properties					753					753
COUNCIL TAX BASE 2013/14										87,446

COUNCIL TAX REDUCTION SCHEME

Reporting Officer: Director of Finance

SUMMARY

The purpose of this report is to enable the Council to approve the new localised Council Tax Reduction Scheme to be implemented from 1 April 2013 and to consider and ratify some technical changes to Council Tax exemptions and discounts following amendments to the provisions of the Local Government Finance Act 1992, introduced by the local Government Finance Act 2012. The Council is required to agree a Council Tax Reduction Scheme by 31 January 2013.

RECOMMENDATIONS: That

- a) **the adoption of the Council Tax Reduction Scheme proposed by Cabinet, be approved initially for a two year period from 1 April 2013 and, as part of the scheme, the continuation of the pensioner discount scheme under the revised Section 13a of the Local Government Finance Act 1992 be approved.**
- b) **the rules for the operation of the London Borough of Hillingdon Council Tax Reduction Scheme be adopted.**
- c) **the new Scheme of Council Tax Discounts, which replace some of the abolished Council Tax exemptions, be approved.**

INFORMATION

COUNCIL TAX REDUCTION SCHEME

The Local Government Finance Act (LGFA) 2012 revised Section 13A of the LGFA 1992 allows for the Council Tax

“to be reduced to the extent, if any, required by the authority’s council tax reduction scheme (see subsection(2))”,

where subsection 2 states:

“Each billing authority in England must make a scheme specifying the reductions which are to apply to amounts of council tax payable in respect of dwellings situated in its area, by

- (a) persons whom the authority considers to be in financial need, or
- (b) persons in classes consisting of persons whom the authority considers to be in general in financial need.”

The Council has complied with the provisions of Subsection 2 and devised a local council tax reduction scheme, set out in the attached report and approved for recommendation to Council by Cabinet on 20 December 2012. The scheme will be funded by means of a grant, based on the previous allocation for Council Tax

Benefits reduced by 10% and the proposed scheme is designed to be cost neutral to the Council.

The Council will continue to discount bills for over 65's under Section 13A (1)(C) of the Local Government Finance Act 1992 (as now amended). As was the case under Council Tax Benefit provisions, persons whose council tax is reduced under the new Council Tax Reduction Scheme, will not be eligible to receive the over 65's discount.

Although guidance on incentivising work within local scheme was only issued by Central Government on 18 December 2012 Central Government, London Borough of Hillingdon had already considered these matters in designing their local Council Tax Reduction Scheme and is therefore compliant with the guidance.

Scheme Rules

In addition to designing a local scheme, Councils were also required to develop scheme rules for the operation of their local scheme. These rules define who is eligible and the method of calculating entitlement for 'working age' residents. The scheme rules have been kept broadly in line with current Council Tax Benefit regulations, with the following amendments:

- The maximum amount of reduction that any household can receive is 80% of the council tax liability;
- Second Adult rebate is no longer payable;
- Back-dating is limited to 3 months (previously 6) bringing this in line with pensioners; and
- The overall capital/savings of £16,000 limit will continue, although under £10,000 (currently £6,000) will be disregarded, and a weekly-assumed income of £1 will be taken for every £500 (currently £250) between £10,000 and £16,000.

Where the person liable for council tax (or their partner, if applicable) is entitled to the Disability Premium, or they receive a War Widows Pension, War Disablement Pension or Armed Forces Compensation Payment they will not be subject to the local restriction of 80% council tax liability. War Widows Pensions, War Disablement Pensions and Armed Forces Compensation Payments will also continue to be fully disregarded as income.

The Government has prescribed the rules for assessing Council Tax Reduction for pensioners (those who have reached the qualifying age for state pension credit), which is largely the current Council Tax Benefit Scheme. These rules have been included in the Hillingdon scheme and ensure pensioners entitled to a Council Tax Reduction will be no worse off.

Hard copies of the scheme rules are available in Group Offices and accessible on line at: <http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=117&MId=1277>

TECHNICAL CHANGES TO COUNCIL TAX

The LGFA 2012 also introduced some technical reforms to Council Tax which give authorities additional powers in relation to certain Council Tax discounts and

exemptions. Amended Council Tax Regulations then deleted certain exempt classes of properties and replaced them with discount classes. As a result of this legislation, the Council is now required to approve the application of these new powers.

The new powers allow authorities to determine the level of discounts applicable to classes of dwellings and the durations for which such discounts can apply. At this time it is recommended that these powers be applied to give effect to a scheme of discounts which replicates the impact of the current exemption scheme and, in effect, makes no changes on the liability for these classes of dwelling. The recommended Scheme of Council Tax Discounts is attached at Appendix A.

ADDITIONAL INFORMATION

Equality Impact Assessment and information to Impacted Residents

At the meeting of Executive Scrutiny on 20 December, following Cabinet agreement to recommend the proposed Scheme to Full Council for adoption, some additional information was requested in relation to the Community Groups who were consulted during the formal consultation on the scheme and on the communications which were being sent to those affected by the introduction of the new scheme. This additional information is detailed below:

Community groups consulted:

- Afghans Women's' Group
- Age UK
- Disability Assembly
- Hillingdon Association of Voluntary Services
- Hillingdon Carers
- Hillingdon Disabled Tenant and Residents Group
- Hillingdon Parent Carers Support Group
- Hillingdon Senate
- Landlord Forum
- Learning Disability Forum
- Learning and Disabilities Partnership Group
- Refugees in Effective and Active Partnership
- Royal British Legion
- Sheltered Housing Forum
- Uxbridge Library Coffee Morning (Older People)
- Youth Council

Communications on the scheme to residents and to affected claimants -

- A press release will be issued following approval of the Scheme by Council;
- The Council's website will be fully updated with relevant information at the beginning of February;
- In mid February all affected residents will be sent a letter enclosing a leaflet giving an overview of the scheme and informing them that they will be affected by these changes;

- During the first week in March a payment card will be sent to all those residents who will become liable to pay Council Tax for the first time;
- During the week commencing 11 March Council Tax bills will be sent out; and
- A follow up article will be published in the March/April edition of Hillingdon People reminding residents of the scheme.

Financial Implications

This is a financial report and the comments of Corporate Finance are contained throughout.

Legal Implications

The attached report to Cabinet contains detailed legal advice on Hillingdon's proposed Council Tax Reduction Scheme. Cabinet was advised that the Secretary of State had the power to issue regulations requiring the Council to include specified matters in its Council Tax Reduction Scheme. The Borough Solicitor confirms that no further regulations have been issued, although the Secretary of State issued further guidance to local authorities on 18 December 2012. The report shows that this guidance had already been taken into account by the Council.

SCHEME OF COUNCIL TAX DISCOUNTS

The LGFA 2012 introduced some technical reforms to Council Tax which give authorities additional powers in relation to certain Council Tax discounts and exemptions. Amended Council Tax Regulations (SIs 2964 and 2965) then deleted certain exempt classes of properties and replaced them with discount classes.

The key areas where central government have replaced exemptions with locally set discounts and have given discretion to vary existing discounts from April 2013 are detailed below along with the Hillingdon's application of the power.

- **Class A** - Unoccupied properties undergoing repair or major structural alternation. Currently 100% exemption can be awarded for up to 12 months. From 1 April 2013 this exemption is abolished and will be replaced with a local discount of 100% for up to 12 months. Where there is currently an exemption the combined exemption and discount periods will run for up to 12 months. Effectively there would be no change for residents and landlords to the existing arrangements.
- **Class B** - Second homes. Currently 25% local discount on the council tax bill can be claimed for furnished properties that are either second homes or furnished property in between rentals. This level was set by the Council in 2004 and it is unchanged through the application of the new powers.
- **Class C** - Unoccupied and unfurnished properties. Currently 100% exemption can be awarded for up to 6 months. From 1 April 2013 this exemption is abolished and will be replaced with a local discount of 100% for up to 6 months. Where on 1 April 2013 a property is in receipt of an exemption the discount will commence on 1 April 2013 and the combined period of exemption and discount will not exceed 6 months. Effectively there would be no change for residents and landlords to the existing arrangements.
- **Class L** - Repossessed Homes (Class L) The current exemption will be abolished and will be replaced with a 100% discount.

Long term empty property

The Council resolved in 2004 to charge full council tax to properties that remained empty after the 12 month Class A exemption or 6 month Class C exemptions had expired. The same charge will apply once the relevant discount periods have been exhausted.

COUNCIL TAX REDUCTION SCHEME – A LOCALISED SCHEME TO REPLACE COUNCIL TAX BENEFIT

Cabinet Member(s)	Councillor Jonathan Bianco
Cabinet Portfolio(s)	Finance, Property & Business Services
Officer Contact(s)	Paul Whaymand, Finance
Papers with report	Appendix A - Consultation Results Appendix B - Equalities Impact Assessment

1. HEADLINE INFORMATION

Summary	This report seeks Cabinet approval to implement a local Council Tax Reduction scheme, with effect from 1 April 2013, when Council Tax Benefit is abolished. This local reduction scheme for pensioners and vulnerable groups will replicate the current Council Tax Benefit Scheme, while the scheme for other working age claimants will restrict the maximum level of support to 80% of Council Tax liability.
Contribution to our plans and strategies	Achieving value for money is an important element of the Council's medium term financial plan.
Financial Cost	The Government has announced that funding for the localisation of support to Council Tax will be 10% lower than funding for Council Tax Benefit. This equates to an estimated financial pressure of £2.25m in 2013/14 and £2.30m in 2014/15. The recommended reduction scheme will mitigate this pressure in full and prevent the need for either an equivalent cut in service budgets or an increase in Council Tax for residents of the Borough.
Relevant Policy Overview Committee	Corporate Services & Partnerships
Ward(s) affected	All

2. RECOMMENDATION

That Cabinet approves for recommendation to Council the adoption of the proposed Council Tax Reduction Scheme initially for a 2 year period from 1 April 2013.

Reasons for recommendation

The Local Government Finance Act introduces the requirement for Local Authorities to design and implement a local reduction scheme for Council Tax from 1 April 2013 to replace Council Tax Benefit, which is being abolished under the Welfare Reform Act 2012. The proposal is to implement the proposed scheme for an initial period of 2 years, during which time its impact alongside the broader sweep of welfare reforms will be monitored.

Alternative options considered / risk management

Alternative options

In considering the options for scheme design, the aim was to develop a simple scheme which minimised the impact across affected claimants, while protecting Council Tax payers. A reduction scheme that will eliminate the funding shortfall announced by the Government and that fits with a wider range of policy considerations is recommended as set out at paragraph 25. However, a range of possible options were considered by Cabinet in July 2012 and a draft scheme was issued for consultation with residents during the period August and October 2012.

Risk Management

1. As a result of other changes contained within the Welfare Reform Act, there is a risk that these could lead to increased migration from high-rent areas and therefore an increase in the claimants for Council Tax Reduction in Hillingdon. This is difficult to predict as existing customers affected by the local housing allowance (LHA) rent changes still have transitional protection, which ends in December 2012.
2. Due to the current economic situation, there is a risk that the number of claimants requiring support continues to rise with a consequential increase in the net cost to the Council, particularly in-year increases that will need to be funded.
3. The implementation of a Council Tax Reduction scheme coincides with significant changes and additional administrative burdens in 2013/14 including;
 - Introduction of Universal Credit.
 - Administration of the overall benefits cap limiting the overall total income for a benefit recipient to £500 / £350 per week (families / single).
 - Social sector rent restrictions for under occupancy.

- Local delivery of the replacement scheme for Community Care Grants and Crisis Loans.
4. In addition, all of the above changes and the introduction of a local Council Tax Reduction (CTR) scheme may cause confusion with some claimants as some will be directly affected by other welfare reform changes.
 5. There is also an increased likelihood and risk that all of the changes may make collection of Council Tax due difficult and lead to a reduction in current collection performance. Similarly, with an unprecedented level of change proposed there is a risk that there may be an adverse impact on the processing performance for claimants.
 6. Options to mitigate all these risks are being developed.

Policy Overview Committee comments

None at this stage

3. INFORMATION

Background

1. The Welfare Reform Act (WRA), which received royal assent on the 8 March 2012, abolishes both Housing Benefit and Council Tax Benefit, and will be brought into force by means of commencement orders made by the Secretary of State. Housing costs will eventually be met through Universal Credit (UC). The current Housing Benefit administration will be transferred from Local Authorities to the Department for Work and Pensions (DWP) over a phased period currently expected to be from April 2014 to March 2017. A local Council Tax Reduction (CTR) scheme is to be administered by Local Authorities from 1 April 2013.
2. The Local Government Finance Act (LGFA) is the mechanism for introducing the new CTR scheme. The Act introduces a number of changes to Council Tax, including a local reduction scheme and also some technical reforms to discounts and exemptions.
3. Council Tax Benefit has previously been fully funded by the DWP. However, under the new arrangements funding will be reduced by 10% of the total Council Tax Benefit bill. The saving required nationally is between £480m and £500m. Council Tax Benefit will be replaced by a locally designed support scheme (CTR) with Local Authorities taking responsibility for the assessment and application of the reduction to applicable claimants.
4. Local Authorities have the option to implement a local scheme which does not pass on this funding cut to those currently eligible for Council Tax Benefits. However, the cost of this protection would fall on the General Fund and would therefore be borne by Council Tax payers, either through a reduction in expenditure on services or through a Council Tax increase.

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5. In 2011/12 Hillingdon paid out £22.5m in Council Tax Benefit. However, assuming that demand for Council Tax Support continues to increase by about 1% per annum the pressure could be increase to £2.3m in 2014/15.
6. The grant will be paid to both billing and major precepting authorities (i.e. the GLA in London), reducing each authority's Council Tax requirement and off-setting the reduction on the Council Tax base. Council Tax support grant from Central Government will be paid as part of the implementation of retained business rates funding and will be applied as a reduction to each billing authority's Council Tax base. Allocations will be set for the first two years through the Local Government Finance Settlement for the period 2013/14 and 2014/15 based on a forecast of spending on Council Tax Benefits for 2013/14.
7. Currently, approximately 21.6% of a resident's annual Council Tax bill is collected on behalf of the precepting body, the Greater London Authority (GLA). All figures quoted above include the GLA precept. Therefore, the estimated pressure of £2.3m would be shared proportionately between Hillingdon and the GLA.
8. The Government's aims with the overall Welfare Reform changes are to:
 - create the right incentives to get more people into work by ensuring work always pays;
 - protect the most vulnerable in our society, and;
 - deliver fairness to those claiming benefit and to the taxpayer.
9. The Government confirmed in the 2010 Comprehensive Spending Review that it will continue to support the most vulnerable whilst ensuring all sections of society who are able to do so contribute to the public sector deficit reduction.
10. The Government decided to localise Council Tax support to:
 - give Local Authorities a greater stake in the economic future of their local area;
 - provide Local Authorities with the opportunity to reform the system of support for working age claimants;
 - reinforce local control over Council Tax by enabling decisions taken locally about the provision of support with Council Tax are consistent with the driver for greater local accountability (referendums);
 - give Local Authorities a significant degree of control over how a 10 per cent reduction on the current Council Tax Benefit cost is achieved, and;
 - give Local Authorities a financial stake in the provision of support for Council Tax and create a stronger incentive for Councils to get people back into work.
11. This report sets out the proposed local CTR scheme which will mitigate the £2.3m financial pressure transferred from Government.
12. The Council needs to introduce a local scheme from 1 April 2013 and therefore it must make a decision on its design by 31 January 2013. If Council

fails to adopt a scheme the CTR default scheme will be imposed and the gap in funding of £2.25m in 2013/14 will need to be found. Cabinet are asked to consider and approve the recommendation in this report, following which a report will be taken to full Council in January for ratification.

13. The Government has stated that councils will not be permitted to reduce Council Tax support for pensioners. This will be achieved by retaining default national rules for pensioners, with eligibility and rates defined in broadly similar regulations as those for Council Tax Benefit.
14. The Government has also said that Local Authorities are expected to maintain an appropriate level of support for other 'vulnerable groups' that have not yet been clearly defined. However, the Government's response to the consultation 'Localising support for Council Tax in England', which was published in December 2011 refers to Local Authorities' responsibility towards vulnerable groups under various acts including;
 - Child Poverty Act 2010;
 - Disabled Persons (Services, Consultation and Representation) Act 1986
 - Chronically Sick and Disabled Persons Act 1970, and
 - Housing Act 1996.
15. The Council has 25,226 Housing Benefit and Council Tax Benefit claimants of which, approximately 21,700 include claims for Council Tax Benefit. It is important to note that after April 2014 new claimants will have to claim their housing support costs from the DWP, as part of their overall benefits under Universal Credit and a separate claim locally for CTR with the Council.
16. However, the Government aims to reduce the need for people to have to repeatedly provide the same information to various public sector bodies and has made amendments to the Local Government Finance Act 2012 to allow data sharing. Data sharing between the billing authority and the DWP and between other billing authorities will be an important way to reduce inconvenience to claimants, reduce complexity and minimise the administrative costs of the scheme.
17. The existing Council Tax Benefit scheme has been developed and refined over a number of years but is ultimately built upon a 'means tested' premise. Most non-working customers are currently eligible for full Council Tax Benefit even if they are working age. This means that they currently do not make any contribution to their Council Tax bill, as their entire liability is met by benefits. Clearly if the Council introduces a requirement for this client group to make a contribution towards their Council Tax liability there is a risk it may lead to tax collection issues.
18. The Government is working with local government associations to look at how Local Authorities can use the existing components of Council Tax Benefit in the design and administration of a local scheme. CLG issued a statement of intent and guidance on 17 May 2012, and their prescribed default scheme regulations in July 2012, which may be readily adapted by any local authority.

The default scheme is broadly the existing Council Tax Benefit scheme and, if adopted or imposed by the Secretary of State, would mean the authority has to meet the 10% shortfall in funding.

19. DWP has recently announced that the subsidy system for CTB will cease 31/03/2013. They have stated that they will not, therefore, pay subsidy on any backdated CTB claims or recovery subsidy on overpayments. An exercise is being undertaken to estimate the likely financial impact on the Council in 2013/14.
20. Implementation of Universal Credit over the period 2013 to 2017 is likely to have an impact upon the operation of the recommended scheme in the future, particularly to ensure all appropriate claimant data is shared between the DWP and the Council for assessment purposes. The decision that Universal Credit is payable a month in arrears will potentially create a delay in receiving information about claimant's eligibility and could also impact on the need to maintain a set of up to date rules once CTB is abolished.
21. There was also a legal requirement to consult on the local reduction scheme with the precepting authority and the public. The Council undertook a consultation exercise between August and October 2012. The results of this are included in Appendix A of this report.

Recommended Council Tax Reduction Scheme

22. The Government has prescribed that local CTR Schemes should ensure that:
 - pensioners should be no worse off;
 - Local Authorities should consider ensuring support for other vulnerable groups; and
 - local schemes should support work incentives and avoid disincentives to work.
23. The principles of the recommended Hillingdon CTR scheme include :
 - everyone will be liable to pay something (excluding pensioners, claimants receiving disability allowance, war widows, war disabled pensioners and claimants receiving armed forces compensation payments);
 - making work pay;
 - restricting the maximum reduction;
 - simplifying backdating arrangements;
 - an expectation that other adult occupiers within the household will contribute;
 - simplifying administration arrangements.
24. The recommended scheme is designed to be as simple as possible, whilst trying to achieve a scheme which absorbs the funding pressure and aligns to the governments overall intentions and protects vulnerable groups. The Government has prescribed the rules for assessing Council Tax Reduction for pensioners, which is largely the existing Council Tax Benefit scheme. The

Council is recommending the same rules are used to assess the CTR for claimants in receipt of disability living allowance (changes to Personal Independence Payment from April 2013) and those claimants entitled to War Widows pensions, war disabilities pensions and armed forces compensation payments.

25. Claimants who are classified as a pensioner or included within a protected vulnerable group (as detailed above) will not be subject to any local restrictions on the maximum amount of CTR payable. The Council's current policy on over 65's discounts, awarded under Section 13A of the Local Government Finance Act 1992 to those Council Tax payers aged over 65 not in receipt of Council Tax benefit, will continue after 1 April 2013 alongside the proposed CTR applicable to those pensioners not eligible for CTR.
26. All other claimants will be assessed for CTR in accordance with the current Council Tax Benefit regulations as amended by prescribed regulations and the following local rules:
- **Council Tax reduction will be restricted to the maximum amount of support of 80%.** This will affect an estimated 13,230 claimants and the average additional cost per claimant would be £4.38 per week (based upon a Band D property)
 - **To remove Second Adult Rebate from people below pensionable age.** Residents can currently claim Second Adult Rebate based on the income of any other adult in the household to compensate them for the loss of 25% Single Persons Discount. It could affect 82 claimants and the average cost to claimants would be £6.55 per week.
 - **To set the Capital Limit for claimants at £16k over which no CTR will be granted and between £10k and £16k CTR will be reduced by £1 for every £500 of capital savings.** This would cost the Council £6k but aligns with the governments intentions to support work incentives and avoid disincentives to work.
 - **Backdating of claims for CTR will be restricted to a maximum of 3 months.** This will align to the current pensioner arrangement.
27. In total it is estimated that this proposed scheme will reduce expenditure by £2.3m per annum which is equivalent to the reduction in funding for localising Council Tax support announced by the government. However, taking account of the financial risk to the Council, the impact on all residents and the impact on claimants, it is recommended that the initial scheme is put in place for a two year period, during which time the scheme can be reviewed and revised, taking account of experience and system developments.
28. Under Council Tax Benefit, guidance, good practice manuals and case law briefings are issued on a regular basis by the DWP. Under CTR this will now be the responsibility of the Council. Officers are currently developing detailed scheme rules based upon the prescribed regulations set by the Government, current CTB regulations, and good practice by other councils and amended where necessary by the recommended local rules for the local approved scheme.

29. Key issues arising from the transition from CTB to CTR are ensuring that:
- existing applicants (working age claimants) for CTB affected by the implementation of the CTR scheme do not have to make a new application;
 - subject to Council approval, the CTR scheme in January 2013, all affected claimants (approx 13,000) will be informed of the changes and how they need to respond in advance of receiving their Council Tax bill for 2013/14;
 - there are arrangements in place to manage new applicants;
 - the revised process for appeals against the Council decisions determining the level of support are clearly laid out and communicated to claimants;
 - Benefits, Council Tax and Customer Services staff are fully briefed on the changes and all processing staff will be cross-trained to support a full administration of the CTR Scheme and be able to process any reduction applied for.
30. The Council's IT system for revenues and benefits delivery is provided by Northgate Information Systems (NIS) who provide systems for over 160 Local Authorities. NIS have provided Local Authorities with assurance that they will have developed a tool, which will allow individual Local Authorities to adjust the parameters for means testing under the Council Tax Benefit system for the development and implementation of a new local scheme for March 2013.

Localising Council Tax Support – Transitional Grant

31. In October 2012 the Government announced a £100m transition grant which sought to encourage best practice in the development of CTR schemes. This is a voluntary grant available to billing and major precepting authorities who design their schemes so that:
- those who would be on 100% support under current Council Tax benefit arrangements pay between zero and no more than 8.5% of their Council Tax liability;
 - the excess income taper rate does not increase above 25%;
 - there is no sharp reduction in support for those entering work - for claimants currently entitled to less than 100% support, the taper will be applied to an amount at least equal to their maximum eligible award;

The impact of moving to a CTR scheme that provides maximum support of 91.5% (as per proposed grant condition) would reduce the income receivable by the Council from £2.26m as per the current recommended scheme to £0.97m leaving a funding gap of £1.3m. Applying Hillingdon's share of the transition grant of £0.53m would reduce the funding gap for 2013/14 to around £0.76m. Further, funding for the transition grant has been announced for one year only.

FINANCIAL IMPLICATIONS

32. Central Government reduction in funding for localising Council Tax Support by 10% will create a budget pressure of £2.25m in 2013/14, potentially rising to

£2.30m in 2014/15. Part of this will fall on the GLA so the net impact on Hillingdon will be about £1.76m with effect from 2013/14.

33. The £2.25m funding gap is based on the information provided by central Government in May 2012 providing an exemplification of the funding distribution for each Council, based upon a 10% reduction to the existing Council Tax Benefit funding across the country. The Government has announced its intention to apply a damping adjustment to some allocations to limit the impact on the worst affected authorities by redistributing some of the funding from the least affected. On present calculations it appears unlikely that Hillingdon's allocation will be affected by this adjustment so an assumption of a 10% reduction remains the best estimate.
34. To offset this pressure the Council has developed a CTR scheme which is broadly similar to the existing Council Tax Benefit scheme and is designed to pass on the costs to claimants, by restricting eligibility and/or individual entitlement as outlined in the report, with the aim of offsetting the net pressure on the Council.
35. The impact of the recommended CTR scheme will mean that an estimated 13,230 residents will now be liable to pay a higher contribution to their Council Tax. This could impact on Council Tax collection rates which could in turn have a further impact on the Council Tax yield. Any proposed change to the collection rate for Council Tax will be considered when the Council approves the Council Tax Base in January 2013.
36. The Government intends that the funding for Local Authorities for local Council Tax support schemes will be within the business rates retention system. For 2013/14 the Local Government Finance settlement will identify the allocations for Local Authorities as a visible line within their baseline funding levels for the first 2 years of the new business rates system. Local Authorities will therefore know what level of funding relates to Council Tax support schemes, to enable planning for the first year of the scheme. However, it is likely that in future years that the amount of government grant for localising Council Tax support will not be specifically identified within the amount of Business Rates retained.
37. This means that going forward the Council will bear the risk of claims varying from their current levels due to changes in economic conditions, demographics etc. In theory fixed-funding could benefit the Council in the longer term if claims reduce, but this is unlikely in the short term as current assumptions are for claims to continue to increase.
38. The Council received about £2.265m administration grant from the DWP in 2012/13. This covered the administration of both the Housing Benefit and Council Tax Benefit schemes. For 2013/14 the Council will receive an administration grant of £2.185m, a reduction of 4.5%.
39. The impact on the Council Tax base of the replacement of Council Tax Benefit with CTR will effectively reduce the Council Tax base and therefore the yield for any given level of Council Tax. This will be dealt with in more

detail when the Council considers the Council Tax Base for 2031/14 in January 2013.

40. In respect of transitional costs, new burdens funding of £84k has been received in 2012/13 to cover the cost of implementing the new Council Tax Scheme. Further funding for transitional costs likely to be at a similar level are expected to be announced for 2013/14.

4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

Equality Impact Assessment

The London Borough of Hillingdon has taken care to design a scheme that is simple, efficient and meets the requirements made of it under Government's statement of intent. This is an important agenda, which also supports greater localisation. Vulnerable groups such as pensioners and those with disabilities will be protected from the changes. Nonetheless, it is inevitable that some groups will be affected by the localisation of Council Tax support, in addition to the broader changes under Welfare Reform.

Hillingdon, therefore, recommends an initial CTR scheme to be adopted for 2 years, during which time its impact alongside the broader sweep of Welfare Reforms will be monitored. At the end of this 2 year period, and depending on the impact on equalities and stakeholders, the current CTR Scheme will either be extended for another year, or the next phase of the CTR Scheme will be designed, consulted upon and introduced.

The current caseload consists of the following customer groups

Pensioners	34%	of caseload
Disabled customers	4%	of caseload
Child in household	42%	of caseload
Working Age	20%	of caseload.

76% of the existing customer caseload receives full entitlement to Council Tax Benefit. This means they currently do not have to budget for their annual Council Tax bill. Customers with vulnerabilities or with difficulties in paying are offered support including extended payment arrangements and income benefit maximisation. In addition a review of the Council's collection and recovery policies will be undertaken as part of the implementation of the local scheme.

The results of the consultation exercise showed that the Black, Asian and Minority Ethnic and (BAME) group is the most disproportionately affected by the proposed scheme, however, options which disproportionately affect lone parent households such as removing Child Tax Credit disregard have been excluded for the Council's new scheme.

The Council will continue to monitor the impact of the Welfare Reform changes taking place from April 2013 as it is recognised that these will put an additional burden on the most deprived households or those dependent on Housing Benefit.

A detailed Equality Impact Assessment has been completed and is attached at Appendix B.

Consultation

The Local Government Finance Act specified that before adopting a CTR Scheme, the billing authority must in the following order:

Consult any major precepting authority which has power to issue a precept to it ;

Publish a scheme;

Consults individuals as it considers are likely to have an interest in the operation of the scheme.

Given the impact on the Borough's residents and that consultation would need to be accessible and proportionate, the Council undertook a high quality, co-ordinated consultation, which provided both online and offline opportunities for residents to engage on the published proposed CTR Scheme following consideration of different options by Cabinet in July 2012. The consultation complied with the Council's community engagement framework and lasted 12 weeks, from 1 August through to 31 October 2012.

The proposed scheme and issues for consultation were publicised via:

The Council's website – www.hillingdon.gov.uk;

The Council's magazine – Hillingdon People (which is mailed across the borough);

A leaflet included in letters to Council Tax payers and Council Tax Benefit claimants;

Local meetings with residents, including;

Hillingdon Older People's Assembly;

Parent Carers' Group;

Coffee Morning at Uxbridge Library;

Hillingdon Senate (made up of Council tenants and leaseholders drawn from various community groups recognised by the London Borough of Hillingdon) (a suggestion by a Senate member is included (see point 7 in the Feedback in Appendix A);

Coverage in the local press (e.g. Uxbridge Gazette, 20 August 2012).

The consultation generated significant interest:

There were 137 requests for information via telephone, and 359 paper surveys were sent out as a result.

The consultation webpage was viewed 6,887 times in August to October.

Overall, there were 318 responses to the consultation, of which:

60 were postal responses and 258 online.

94 (30%) respondents say their household receives Council Tax Benefit.

67 (21%) are likely to be affected by the changes (working age and receive CT Benefit).

A summary of responses to the consultation is contained in Appendix A.

5. CORPORATE IMPLICATIONS

Corporate Finance

This is a corporate finance report and the implications are detailed within the financial implications above.

Legal

The Local Government Finance Act 2012 amends the provisions of the Local Government Finance Act 1992 in relation to Council Tax Benefit. Section 13A of the Local Government Finance Act 1992 (as now amended) provides for a person's liability to pay Council Tax to be reduced : (a) in accordance with Hillingdon's Council Tax Reduction Scheme and (c) "may be reduced to such extent (or, if the amount has been reduced under paragraph (a), such further extent) as the billing authority thinks fit".

Section 13 (2) then requires the Council to "make a scheme specifying the reductions which are to apply to amounts of Council Tax payable, in respect of dwellings situated in its area, by persons whom the authority considers to be in financial need, or persons in classes consisting of persons whom the authority considers to be, in general, in financial need". This is called the Council Tax Reduction Scheme.

Schedule 1A to the Act makes detailed provision about the matters that are to be included in the Scheme and the consultation that the Council must undertake before it makes its Scheme. The Borough Solicitor confirms that Hillingdon's proposed scheme complies with Schedule 1A, although the Secretary of State retains power under the Schedule to "make regulations prescribing other requirements for schemes". To date, no such regulations have been issued. Given that the statutory deadline for local authorities to adopt a Council Tax Reduction Scheme is 31 January 2013, the Secretary of State has until 20 December 2012 to lay regulations before Parliament. Should any regulations be made by the Secretary of State, the provisions of the Regulations will be incorporated into Hillingdon's own Scheme for approval by the Council at its meeting on 17 January 2013.

Paragraph 3 of Schedule 1A to the Act requires the Council to consult the GLA, publish a draft scheme and "consult such other persons as it considers are likely to have an interest in the operation of the scheme" before it adopts its Scheme. Full details of the consultation undertaken are contained in Appendix A. The Council must consider the views expressed in the consultation before making Hillingdon's Scheme, although some issues (such as general welfare policy and banding of properties for Council Tax) are matters that are outside the Council's control.

Members must also consider the Equalities Impact Assessment (EIA) contained in Appendix B in order to assist the Council in meeting its duty under section 149 of the Equality Act 2010 to advance equality of opportunity for all residents. The EIA shows the adverse effects that Hillingdon's Scheme will have on a large number of Borough residents, the alternative options that were considered to ameliorate these effects and the reasons why these options have not been recommended for adoption by the Council.

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The requirement for Hillingdon to adopt its own Council Tax Reduction Scheme arises from the decision of H.M Government to reduce by 10% the amount of financial support for residents in relation to Council Tax. The only way for the Council to ensure that no residents suffer financially as a result of this decision by H.M Government is to divert monies from another budget to make up the reduction in funding. However, if another budget is reduced in order to ensure that residents in receipt of Council Tax Benefit are not financially disadvantaged, other residents will be adversely affected because funding for services on which they rely will be reduced. If the Council wishes to consider making up the shortfall in funding from H.M Government, it must identify the budget from which the funding is to come and then conduct a further Equalities Impact Assessment to determine whether the option is appropriate.

As stated section 13 (1) (c) of the Local Government Finance Act 2012(as amended) confers an additional power on the Council to reduce a resident's Council Tax Liability "to such extent as the [Council] thinks fit". This power was first introduced by the Local Government Act 2003 and ,in 2007, Hillingdon agreed to use this power to grant a discount to qualifying pensioner households. As stated in the Report, the Council proposes to maintain this policy and the Borough Solicitor confirms that it is lawful for the Council to continue to do so.

Finally, the Borough Solicitor advises that Schedule 1A to the Act requires the Council to review its Council Tax Reduction Scheme on an annual basis.

BACKGROUND PAPERS

Report entitled 'Council Tax Support a localised scheme to replace Council Tax Benefit'
Cabinet 26 July 2012



Appendix A - Council Tax Support Scheme Consultation 2012 Report – 6 November 2012

Changes to Council Tax Benefit

- Council Tax Benefit is being abolished by central Government, and each council has to replace it with a locally-funded scheme. The Government is also giving councils less money to fund these local support schemes, meaning that savings are needed if Hillingdon's council tax is to remain low.
- The reduction in funding means the Council will need to make some difficult decisions about who gets financial support and how much. The Council therefore held a consultation with residents on their proposed local Council Tax Support Scheme.

The Consultation

The consultation period ran from 6th August to 31st October 2012.

The proposals and consultation were publicised via:

- The Council's website – www.hillingdon.gov.uk
- The Council's magazine – Hillingdon People (which is mailed across the borough)
- A leaflet included in letters to Council Tax payers and Council Tax Benefit claimants.
- Local meetings with residents, including:
 - Hillingdon Older People's Assembly
 - Parent Carers' Group
 - Coffee Morning at Uxbridge Library
 - Hillingdon Senate (made up of council tenants and leaseholders drawn from various community groups recognised by the London Borough of Hillingdon)
- Coverage in the local press (e.g. Uxbridge Gazette, 20 August 2012).

The consultation generated significant interest:

- There were 137 requests for information via telephone, and 359 paper surveys were sent out as a result.
- The consultation webpage was viewed 6,887 times in August to October.

Overall, there were 318 responses to the consultation, of which:

- 60 were postal responses and 258 online.
- 94 (30%) respondents say their household receives Council Tax Benefit.
- 67 (21%) are likely to be affected by the changes (working age and receive CT Benefit).

There was also a submission by GLA (see Appendix 3), and a suggestion by a Senate member which they wished to be included (see point 7 in the Feedback).

Feedback from the Consultation

1) Vulnerable Groups

The majority of respondents agree that the following 'vulnerable' groups should be protected from the proposed changes:

- Pensioners (80%)
- People in receipt of a disability premium (70%)
- People in receipt of a War Widows Pension or a war disabilities pension (75%)

There were 66 (21%) comments about the proposals for vulnerable groups.

Summary of the points raised:

- These groups are not necessarily more 'vulnerable' than other benefit claimants.
- Other groups (e.g. single parents household) should also be considered as 'vulnerable'.
- Age should not be a factor in determining need, only income.
- Benefits should be means tested on a case-by-case basis.
- Some disability claims are fraudulent, and these cases affect the credibility of the benefits system.

2) Non-vulnerable claimants of working age

The majority of respondents (71%) agree that all 'non-vulnerable' claimants of working age should have to pay a contribution towards Council Tax, while 20% disagree. Half (49%) of those likely to be affected agree, while 39% disagree.

Half (52%) agree with the proposal to make the maximum amount of support to non-vulnerable claimants 80% of their Council Tax bill, while 32% disagree. Those likely to be affected are split 40% v 40%.

There were 89 (28%) comments about the proposals for 'non-vulnerable' claimants of working age.

Summary of the points raised:

- The council tax burden should not only fall on those who work. The benefits system should therefore encourage people to work and contribute to society.
- The terms 'vulnerable' and 'non-vulnerable' create a grey area e.g. why would someone need to claim benefits if they were not 'vulnerable'?
- Some argue that the figure of 80% is too much, others that it is too little.
- The figure of 80% needs to be explained more as it feels arbitrary.
- Benefit should be based on circumstances and means tested.
- Some households with already low incomes will not be able to afford the changes.
- Current benefits are based a minimum amount someone needs to live on. These proposals would reduce some household's incomes below this amount.
- Chasing such small amounts of Council Tax arrears from hard-pressed households will not be cost effective.
- Benefits could be offered in return for voluntary work.

3) Second Adult Rebate

Half (48%) agree the Second Adult Rebate be removed from people who are not pensioners, while 34% disagree.

One third (33%) of those affected agree, which 40% disagree.

There were 47 (15%) comments about the proposals for Second Adult Rebate.

Summary of the points raised:

- Second Adult Rebate often confused with Single Person Discount.
- Some think that the occupancy of the house should be considered, while others that it should be per household.
- Rebate system may be open to abuse e.g. Sub-tenants
- Removing the rebate may penalise those in work and make it better for them to claim benefits instead.

4) Capital (Savings and Investments)

The majority (79%) agree that the Council Tax Support Scheme should encourage people back to employment.

This includes 57% of those affected, while 24 disagree.

Two thirds (65%) agree that the capital limit should remain at £16,000, while 23% disagree.

Just over half (54%) of those affected agree with this, while one third (34%) disagree.

Just over half (55%) agree that the contribution for Council Tax Support should be set at £1 for every £500 of capital savings, while 22% disagree.

Half (49%) of those affected agree, while a quarter (24%) disagree.

Three fifths (58%) agree that £10,000 capital should be disregarded, while one fifth (21%) disagree.

There were similar proportions among those affected (49% v 22% respectively).

There were 54 (17%) comments about the proposals for Capital.

Summary of the points raised:

- People with £10,000 of savings should not be receiving benefits.
- Savers should not be penalised and that those in work should be able to save some of their income.
- Jobseekers are unlikely to have this level of capital so the proposals will not encourage people into work.

5) Backdated Payments

Three fifths (62%) agree that backdating should be restricted to 3 months, while one quarter (26%) disagree.

57% of those affected agree, while 28% disagree.

There were 50 (16%) comments about the proposals for Backdated Payments.

Summary of the points raised:

- Backdating of payments should be abolished.
- Claimants should take responsibility for themselves and claim immediately.

- Backdating should be retained as the delay may not be the fault of the claimant.
- No backdating apart from exceptional circumstances e.g. errors by the Council.

6) Final Comments

There were 59 (19%) final comments.

Summary of the points raised:

- The benefits system needs reforming.
- Need to cut down on fraudulent claims and help those in genuine need.
- The proposals will adversely affect low income households, and people will struggle.
- What will be the impact of Council Tax charges of the proposals?
- There are too few jobs at present to encourage people back to work.
- The consultation should be more widely publicised.
- The proposals may impact on carers and the people they care for (Hillingdon Carers)

7) Alternative Proposal from Senate

A member of the Senate made this alternative proposal:

- The proposed Council Tax Support scheme seeks to cover a shortfall in central Government funding by targeting benefit claimants - a group that are least able to cope with increases in household expenditure. Benefit claimants are often powerless to change their circumstances, and as the cost of essentials (such as food and fuel) rises, many claimants and their families are struggling to make ends meet. An alternative proposal should be considered, which would cover the shortfall in funding by raising Council Tax for higher band properties. Those living in these properties are likely to have a higher level of disposable income, and therefore more able to absorb an increase household expenditure.



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Appendix B

Impact Assessment

STEP A) Description of what is to be assessed and its relevance to equality

What is being assessed? Please tick ✓

Review of a service Staff restructure Decommissioning a service

Changing a policy ✓ Tendering for a new service A strategy or plan

The London Borough of Hillingdon has reviewed the different options available in developing a local Council Tax Reduction (CTR) scheme, as it is required to do under the changes introduced as part of the 2010 Comprehensive Spending Review, and the subsequent Welfare Reform Act, Local Government Finance Act and Local Government Resource Review.

The proposed scheme for 2013/14 is set out below, alongside the alternative options which were considered and subsequently discounted, due to adverse impacts involved in their implementation.

Who is accountable? E.g. Head of Service or Corporate Director

Paul Whaymand, Corporate Director of Finance

Date assessment completed and approved by accountable person

July 2012 – Updated November 2012

Names and job titles of people carrying out the assessment

Nancy Le Roux, Senior Finance Manager - Corporate Finance

A.1) What are the main aims and intended benefits of what you are assessing?

Aims of proposed local Council Tax Reduction scheme for 2013/14

The key aim for the local Council Tax Scheme (CTR) is to deliver a scheme affordable to the Council, which is simple and easy to understand for residents, and which is efficient to deliver and administer. This aligns with the Government's intentions for localising Council Tax Support.

National principles

The Statement of Intent published by CLG sets out the guidelines and constraints in designing a new local scheme. These include:

- No change in the current level of award for existing pensioners and an intention to provide similar protection for future pensioners;
- Consideration of continuing support for other vulnerable groups; and
- Local schemes should support work incentives, and in particular avoid disincentives to move into work.

Underpinning principles

The proposed principles of a local Hillingdon scheme include:-

- Everyone will be liable to pay something (excluding protected groups);
- Making work pay;
- Restrictions on maximum support;
- Simplified backdating arrangements;
- Expectation that other adult occupiers within the household will contribute;
- Simplified administration arrangements.

Scheme design

Pensioners and vulnerable groups (see table 6) will be unaffected by this change as their CTR will be calculated on the same basis as their Council Tax Benefit (CTB).

The initial scheme, for 'working age' customers on the current CTB scheme is set out below with the following modifications:

- Maximum Support will be capped at 80%;
- Removal of Second Adult Rebate
- Backdating will be restricted to 3 months, to align to the pensioner arrangement; and
- Capital restrictions will be aligned to the pensioner arrangements, i.e. the capital limit will be £16k over which no support would be granted and between £10k and £16k, support will be reduced by £1 for every £500 of capital savings.

A.2) Who are the service users or staff affected by what you are assessing? What is their equality profile?

Total population of CTB claimants

In total, there are 105,631 properties within the Borough with a Council Tax liability (December 2011 figures).

Hillingdon has 21,478 households receiving Council Tax Benefit (April 2012 figures). Consequently, 20.3% of the Borough receives Council Tax Benefit (CTB).

Of a total 21,478 households receiving CTB, the breakdown of affected groups is as follows: 7,304 are pensioners, 821 are classed as vulnerable and 13,353 are working age (other). This information is provided in greater detail below:

Table 1 - Breakdown of current council tax benefit customer profile			
Type of Customer	Number	Yearly (£)	% of Total
Pensioners	7,304	£7,425,929	34%
Passported (IS, JSA, ESA)	8,531	£9,359,918	43%
Single workers	514	£324,168	1%
Single parents working	1,364	£1,025,388	5%
Families - workers	2,121	£2,282,280	10%
Single workers disabled	83	£68,432	0%
Families - workers with a disabled member	152	£157,300	1%
Single non workers	464	£409,032	2%
Single parents not working	263	£279,604	1%
Non working families	98	£94,692	0%
Single disabled non workers	512	£477,620	2%
Disabled non working families	72	£91,624	0%
Total		£21,995,987	100%

Age of claimants

Table 3- Breakdown of working age council tax benefit customer profile by age		
Age of Customer	Number	% of Total
18 to 21	227	1.7%
22 to 30	2393	17.9%
31 to 40	3935	29.5%
41 to 50	4150	31%
51 to 61	2648	19.9%
Total	13353	100%

The above table shows the breakdown of age ranges for CTB claimants who are of working

age. The provisions of the proposed scheme for Hillingdon mean that pensioners continue to receive the same support as they have under CTB. As they are not affected by the proposed changes, they have been excluded from the table above.

Gender

Table 4- Breakdown of working age council tax benefit customer by gender		
Gender of Customer	Number	% of Total
Male	4,522	33.9%
Female	8,831	66.1%
Total	13353	100%

Ethnicity

Table 5 - Breakdown of working age council tax benefit customer by ethnicity		
31	White - English / Welsh / Scottish / Northern Irish / British	4434
32	White - Irish	168
33	White - Gypsy or Irish Traveller	0
34	White - Any Other White background	179
35	Mixed / Multiple ethnic group - White and Black Caribbean	46
36	Mixed / Multiple ethnic group - White and Black African	25
37	Mixed / Multiple ethnic group - White and Asian	36
38	Mixed / Multiple ethnic group - Any Other Mixed / multiple ethnic background	36
39	Asian / Asian British – Indian	550
40	Asian / Asian British – Pakistani	433
41	Asian / Asian British – Bangladeshi	160
42	Asian / Asian British – Chinese	41
43	Asian / Asian British - Any other Asian background	353
44	Black / African / Caribbean / Black British – African	1321
45	Black / African / Caribbean / Black British – Caribbean	288
46	Black / African / Caribbean / Black British – Any other Black / African / Caribbean background	114
47	Other ethnic group – Arab	0
48	Other ethnic group – Any other ethnic group	1544
98	Any other	0
99	Not known/not provided	3626
	Total	13353

The table above indicates CTB claimants by ethnicity. 2,583 households did not complete this information, amounting to the shortfall in working age households accessing CTB at the point of data collection (13,353).

Vulnerability

The classification of a vulnerable person for the purposes of CTR Scheme covers anybody in receipt of one or more or of the following premiums:

Disability Premium
Enhanced Disability Premium
Severe Disability Premium
Disability Premium for Dependents
Enhanced Disability Premium for Dependents
Disabled Earned Disregard
CT Disability Reduction
War Widows Pension
War Disablement Pension
Armed forces Compensation scheme

As part of the design of the CTR scheme for Hillingdon, vulnerable persons will continue to receive the same level of support as under CTB. These individuals are not affected by the changes being introduced under the new scheme.

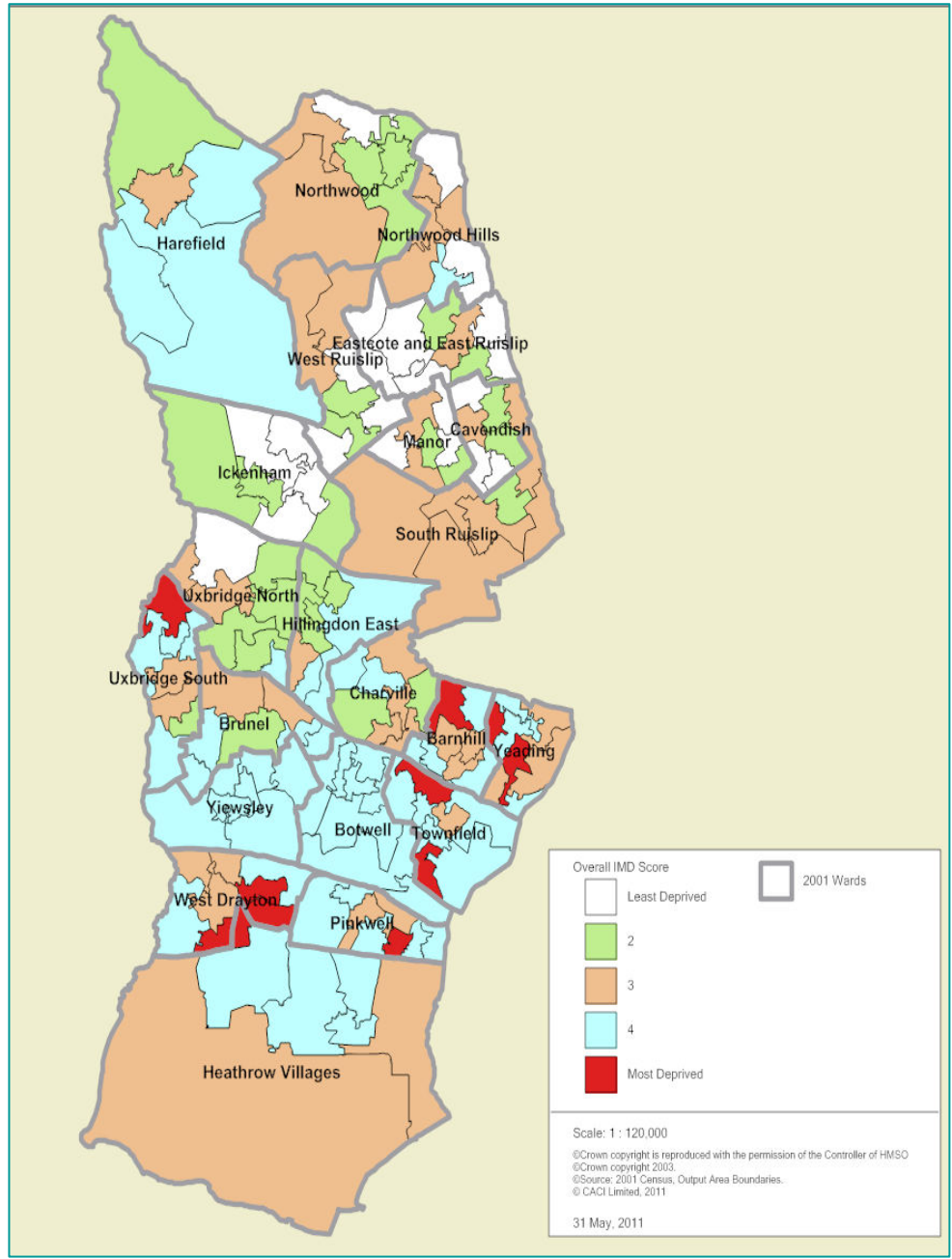
Deprivation

Working age CTB claimants are more likely to receive Housing Benefit (HB), which is also being reduced as part of the broader Welfare Reform agenda. In Hillingdon, 15,952 households receive HB. 4,424 of these are council tenants; 3,968 live with Registered Social Landlords, and 7,560 are private tenants (October 2012 figures)

The scheme has been designed to protect vulnerable groups, and to avoid the creation of disincentives for claimants to work.

Key provisions which would disproportionately affect low income households have been excluded from Hillingdon's scheme. These include capping support by band of property (75% of households at Band D and above receive Housing Benefit).

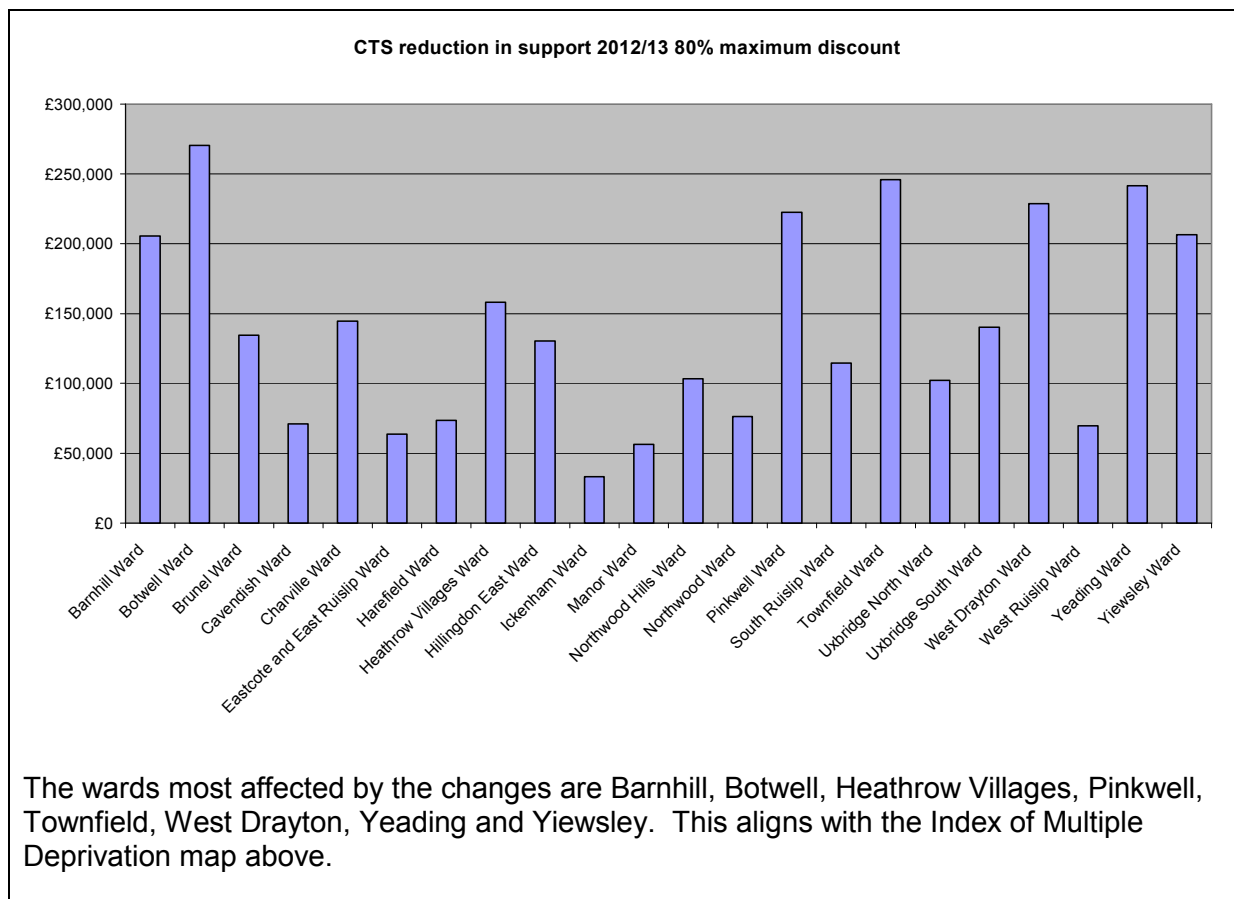
As such, it is likely the impact of the CTR scheme will align with the Borough-wide map of deprivation, below:



This analysis is supported by the ward-level analysis of the impact of introducing the scheme, overleaf.

Impact by geographical area

Table 6 – Loss of financial support by geographical area



A.3) Who are the stakeholders in this assessment and what is their interest in it?

Stakeholders	Interest
Council Tax Benefit claimants	Council Tax Benefit working age claimants will be the customers directly affected by the change in support.
Local Interest Groups	Voluntary and community groups who may work with the affected claimants.
LB Hillingdon	Overall impact on Council budget
LB Hillingdon Housing Benefit and Council Tax services	The services and staff who will administer the future scheme.
Precepting authorities	Collection and overall reduction in funding
Central government (Department of Work and Pensions, Communities and Local Government)	DWP and CLG have made requirements of councils to deliver this scheme for the financial year starting from April 2013.
Council tax payers	Financial pressure on other services from the council if the scheme is not delivered within budget.

A.4) Which protected characteristics or community issues are relevant to the assessment? ✓
in the box.

Age	✓	Religion or belief	
Disability	✓	Sex	✓
Gender reassignment		Sexual Orientation	
Marriage or civil partnership		Community Cohesion	
Pregnancy or maternity		Community Safety	
Race/Ethnicity	✓	Other – please state: Working age residents	✓

STEP B) Consideration of information; data, research, consultation, engagement

B.1) Consideration of information and data - what have you got and what is it telling you?

Overall impact of the scheme by equality characteristic

Sex

The data indicates that the largest group of claimants for CTB are women who are over represented when compared to the total borough population (66 % to 50.4%¹). As a result, any change to the support provided through this benefit is likely to impact women twice as greatly as men.

Race

The data indicates that the largest group of claimants for CTB are White British at 33% which is below the total borough population of 68%². BAME people make up 39.6% of claimants compared to 32%³ of the total borough population and are therefore disproportionately affected by the changes. Data is unavailable for 27% of claimants which should be borne in mind when drawing any conclusions.

Black African make up 9.9% of CTB claimants, more than double the 4%⁴ of the total borough population.

Age

The data shows that people aged 31 to 61 are disproportionately affected when compared to the total borough population: 98% compared to 48%⁵

Disability

The data for those in receipt of a disability based benefit has not been analysed as those people will not be affected by the changes.

¹ Census 2011

^{2,3,4} ONS mid year population estimates 2010

⁵ Census 2011

Consultation

B.2) Did you carry out any consultation or engagement as part of this assessment?

Please tick ✓ NO

YES

If yes, what did you do or are planning to do? What were the outcomes?

- A full consultation with the public and special interest groups has been undertaken
The Council's website – www.hillingdon.gov.uk;
- The Council's magazine – Hillingdon People (which is mailed across the borough);
- A leaflet is being included in letters to Council Tax payers and Council Tax Benefit claimants;
- Local meetings with residents, including;
 - Hillingdon Older People's Assembly ;
 - Parent Carers' Group;
 - Coffee Morning at Uxbridge Library ;
 - Hillingdon Senate (made up of council tenants and leaseholders drawn from various community groups recognised by the London Borough of Hillingdon) (a suggestion by a Senate member is included (see point 7 in the Feedback in Appendix 2) ;
 - Coverage in the local press (e.g. Uxbridge Gazette, 20 August 2012).;

The consultation generated significant interest:

- There were 137 requests for information via telephone, and 359 paper surveys were sent out as a result.
- The consultation webpage was viewed 6,887 times in August to October.

Overall, there were 318 responses to the consultation, of which:

- 60 were postal responses and 258 online.
- 94 (30%) respondents say their household receives Council Tax Benefit.

67 (21%) are likely to be affected by the changes (working age and receive

Feedback highlights from the consultation were as follows :

- The majority of respondents agree with the vulnerable groups , pensioners (80%), people in receipt of a disability premium (70%) and people in receipt of War widows Pension or war disabilities pension (75%);
- 71% agreed that non vulnerable claimants of working age should pay a contribution to council tax ;
- 48% agree that the Second Adult Rebate be removed from people who are not pensioners ;
- 79% agree that the Council Tax Reduction Scheme should encourage people back into employment and 65% agreed the capital limit should remain at £16,000;
- 62% agree that backdating should be restricted to 3 months

The detailed feedback is contained within Appendix A to the report 'Council Tax Reduction Scheme – a localised scheme to replace Council Tax Benefit '

Finally, consultation has taken place with precepting authorities.

B.3) Provide any other information to consider as part of the assessment

Impact of specific Council Tax Reduction scheme proposals for customers

1. Overall impact of the scheme

In developing a local CTR scheme, it has been a key principle to consider the impact on residents affected by the changes proposed. Many of the recipients of Council Tax support will also be affected by the wider benefit reforms.

The CTR scheme for Hillingdon will protect pensioners and vulnerable groups, including anybody in receipt of a disability-based benefit or war widows pension. These groups will continue to receive support at the same level as they have done under CTB.

In addition, the London Borough of Hillingdon will continue to monitor the impact of Welfare Reform changes taking place from April 2013, as it is recognised that these will put an additional financial burden on households reliant on Housing Benefit.

All working age CTB claimants will see their level of support reduce under the new CTR. Individuals receiving under approximately £3.50 in support per week will receive no support under the new system.

The London Borough of Hillingdon, therefore, proposes an initial scheme which will be adopted for the 2 years, during which time its impact alongside the broader sweep of Welfare Reforms will be monitored. At the end of this 2 year period, and depending on the impact on equalities and stakeholders, the current CTR Scheme will either be extended for another year, or the next phase of the CTR will be designed, consulted upon and introduced.

2. Restriction of Maximum Support to 80%

This will restrict the maximum amount of Council Tax reduction that the majority of working age residents claiming a reduction can receive.

Currently residents on either Income Support (IS), income based Job Seekers Allowance and income based Employment Support Allowance with no non-dependants receive Council Tax Benefit equal to 100% of their Council Tax liability.

CTB is currently received by 14,154 working age households of which 30% are low paid working households.

The proposed scheme is the most equitable in that it will equally affect all working age households not deemed vulnerable, irrespective of income. By applying a standard reduction to all working age claimants, the impact is spread across the widest possible group, thereby minimising the impact on each individual affected claimant.

The proposed CTR scheme will be the most efficient to deliver and the easiest to communicate to residents, as the main elements of the scheme will mirror the current Council Tax Benefit and Housing Benefit Schemes. In this way, residents can continue to claim for both schemes on one application form.

3. Removing Second Adult Rebate

Second Adult Rebate (SAR) is a scheme that is not means tested on the householder. The scheme was introduced to compensate single Council Tax payers who do not qualify for Council Tax Benefit in their own right, and do not qualify for Single Persons Discount

because they have a low income second adult(s) living with them. The second adult(s) is means-tested and depending on their income a reduction between 7.5% and 25% is granted.

Removing Second Adult Rebate would still afford protection for customers on low income through the means tested process as the majority receive SAR through a 'better buy' calculation. This change might have a minimal effect on collection as most of these customers are already paying up to 75% of their liability. There are currently 155 households in Hillingdon receiving Second Adult Rebate, of which 30 are pensioners.

4. Alignment of working age backdating limits with those of pensioners

This proposal will limit backdating to three months for working age customers. The current Council Tax Benefit Regulations allow six months backdating providing applicants can show continuous good cause for not applying earlier. Many claims are received but do not meet the legal conditions to allow back date. In 2011/12 1396 applications were received of which 40% were awarded.

5. Realignment of working age capital restrictions

Under the proposed Council Tax Scheme, the capital limit over which no support would be granted will be £16k. Between £10k and £16k, support will be reduced by a tariff income of £1 for every £500 of capital savings. This is an increase on the current level of £6k, before a tariff income is applied and will be an additional incentive to work and save and the cost impact is immaterial.

Impact of alternative options for Council Tax Support on stakeholder groups

1. Capping payments by band

Capping payment by band could predominantly affect families in need of larger accommodation or (for homeowners) affect the asset rich on a low income. It could make people move to smaller more affordable accommodation. There might be a need to increase bad debt provision as these debts may be difficult to collect. The 'capping' would also affect families in private rented accommodation who will have limited income to pay the difference. This option goes against the premise that CTR is based on income and ability to pay.

By capping the discount at Band D properties, the maximum support available to residents would be £1,419.65, if the scheme started in 2012/13.

There are currently 1,252 working age households in borough receiving Council Tax Benefit above Band D broken down as follows:

Band E - 1014
Band F - 197
Band G - 39
Band H - 2

54% of these households are currently receiving maximum Council Tax Benefit.

In addition, 936 (75%) of households are also receiving Housing Benefit and as such could also be subject to the Housing Benefit cuts introduced in April 2012 that imposed a cap on rent levels, and from April 2013 when the overall Benefit caps previously mentioned are introduced. In particular it could disproportionately impact on people who have larger families with 4 children or more (affects 13%).

2. Applying a minimum award for working claimants

Applying a minimum award removes entitlement from those with an ability to pay (from those at the upper end of the low income bracket). These customers are already paying the majority of their Council Tax bill; however, this change would remove any entitlement to support. It does not remove the assessment burden as a full assessment would be required to determine the level of award and then advise the customer they have 'no entitlement'. The change would deliver minimal savings and would affect the 80 households in Hillingdon that receive less than £2 per week.

3. Increasing the excess income withdrawal rate

Increasing the current excess income withdrawal rate from 20% to 25% reduces entitlement in proportion to the customer's ability to pay. These customers already have income above their needs (the living allowance the Department for Work and Pensions assesses they need to live on) and currently pay something towards their Council Tax liability. Although, it may seem in conflict with Universal Credit (UC) and increasing incentives to work the government has stated in its response to the consultation to minimise the effect of UC and CTS being withdrawn simultaneously it has proposed higher earnings disregards; these are in addition to their original proposed disregards and are as follows;

- An additional earnings disregard to couples with children of £250;
- Increasing the child element in the earnings disregard from £2,700 to £4,000

• An increase in the minimum disregard per adult of £700, including for single claimants
However, UC will not be introduced for new claims until October 2013 for 'out of work' claims and later for 'in work' claims. Existing cases will migrate to UC between 2013 and 2017. Increasing the withdrawal rate to 30% will affect 2542 claimants, the majority of whom are working and of this some 469 will lose all existing entitlement to support.

4. Reducing or removing working tax credit disregards

Removing or reducing the working tax credit disregard affects households that currently have either the claimant or the partner working in excess of 30 hours weekly. Customers that are working less than 30 hours each week do not receive this income disregard. Working tax credit is being subsumed within

UC, therefore, this option would need to be reviewed when the UC regulations are published and possibly amended for April 2014.

5. Removing child benefit disregard

Child benefit was fully included in the assessment of Housing Benefit and Council Tax Benefit prior to November 2009 it then became fully disregarded.

The Government policy aim at the time was to help meet national child poverty targets. The Council could consider removing the disregard, or allowing a % of the child benefit paid to be disregarded, as child benefit will be fully included in the assessment when the benefit cap is introduced in April

There are currently 3485 working households with children receiving Council Tax Benefit in Hillingdon, 39% of which are lone parents. This proposal would disproportionately affect low-income working households, and as a result is a disincentive to work. It also goes against the principles of Universal Credit of 'making work pay' as in-work households will not be subject to the overall Benefit cap from April 2013. Therefore, this is not being proposed as part of the Scheme.

6. All claimants with non-dependents

Restricting the increased non-dependent contributions to the working non-dependent could be a fair way of ensuring those non-dependants that are able to pay do so. It may be unreasonable for out of work non-dependants to pay an increased deduction as they are

already on a very low-income. If they were forced to leave the family home this may lead to an increase in shared accommodation increasing pressure on the supply of housing for this group.

Legal context

Under the Equality Act 2010, the Council must not discriminate against people with a protected characteristics in the services that it provides. The Council also has a public duty to pay due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations (Equality Act 2010)

Financial context

It is predicted that public sector funding will reduce by at least 28% over the life of the current parliament, with Hillingdon Council having to achieve in excess of £60m savings over the four year period.

National policy context

As part of the Spending Review 2010, the Government announced that it intended to localise Council Tax Benefit (CTB) from 1 April 2013 with a 10% reduction in expenditure. These plans were included as part of the terms of reference for the Local Government Resource Review and the Welfare Reform Bill contains provisions to abolish CTB.

On 17 May, CLG published a consultation on funding arrangements for the new scheme with responses due by 12 July 2012. On the same date a Statement of Intent was published detailing the proposed methodology for the design and operation of a local scheme for council tax support.

National impact assessments

This document has been developed in line with the impact assessments published at the national level by Communities and Local Government. These are listed below:

- *Local Government Finance Bill: Localising support for council tax – Impact assessment* (Communities and Local Government)
- *Local Government Finance Bill: Localising support for council tax – Updated impact assessment* (Communities and Local Government)
- *Localising support for council tax: Vulnerable people – Key local authority duties* (Communities and Local Government)

C) Assessment

What did you find in B1? Who is affected? Is there, or likely to be, an impact on certain groups?

C.1) Describe any **NEGATIVE** impacts (actual or potential):

Equality Group	Impact on this group and actions you need to take
Working age BAME women living in deprivation	<p>This group is the most disproportionately affected by the proposed scheme.</p> <p>Options which disproportionately affect lone parent households, such as removing Child Tax Credit disregard, have been excluded from the Council's new scheme.</p>

	<p>The London Borough of Hillingdon will continue to monitor the impact of Welfare Reform changes taking place from April 2013, as it is recognised that these will put an additional financial burden on the most deprived households, or those reliant on Housing Benefit.</p> <p>The impact of the changes to the Council Tax Support alongside the broader sweep of Welfare Reforms will be monitored and at the end of the 2nd year of the initial scheme, depending on the impact on equalities and stakeholders, the current CTR Scheme will either be extended for another year, or the next phase of the CTR Scheme will be designed, consulted upon and introduced.</p>
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C.2) Describe any **POSITIVE** impacts

Equality Group	Impact on this group and actions you need to take
Working age	<p>The CTR scheme has been designed in such a way as to avoid the creation of disincentives to finding work.</p> <p>Options such as increasing the excess income withdrawal rate would serve as a disincentive to work. These have been excluded from the new scheme.</p>
Pensioners	Pensioners are protected from changes in support introduced as part of the CTR scheme.
Vulnerable groups	Vulnerable groups (including individuals receiving disability benefits) are protected from changes in support introduced as part of the CTR scheme.

D) Conclusions

Reducing spending on support for Council Tax is an important contribution to Government's programme of deficit reduction, saving £470 million a year in Great Britain from 2013-14 which, based on previous shares of expenditure equates to £420 million a year in England. The London Borough of Hillingdon has taken care to design a scheme that is simple, efficient and meets the requirements made of it under the Government's statement of intent.

This is an important agenda, which also supports greater localisation. Vulnerable groups such as pensioners and those with disabilities will be protected from the changes.

Nonetheless, it is inevitable that some groups will be affected by the localisation of Council Tax, in addition to the broader changes under Welfare Reform.

The London Borough of Hillingdon, therefore, proposes an initial scheme which will be adopted for the 2 years, during which time its impact alongside the broader sweep of Welfare Reforms will be monitored. At the end of this 2 year period, and depending on the impact on equalities and stakeholders, the current CTR Scheme will either be extended for another year, or the next phase of the CTR Scheme will be designed, consulted upon and introduced.

Signed and dated:

27 November 2012

Name and position:



Paul Whaymand - Corporate Director of Finance

Council Tax Reduction Scheme



HILLINGDON
LONDON

Foreword

This document sets out the London Borough of Hillingdon's Draft Council Tax Reduction Scheme. Following a period of consultation the council will consider the scheme again and Once the final scheme is made it shall have effect 1st April 2013.

The scheme set out in this document replaces Council Tax Benefit following its abolition by s33 of the Welfare Reform Act 2012.

This Scheme complies with the requirements of s13A and Schedule 1A of the Local Government Finance Act 1992

This Scheme does not and cannot make any changes to the scheme of discounts and exemptions available in Council Tax. The authority will continue to comply with its statutory duty to award discounts and exemptions in appropriate cases for example (but not limited to): where there is a single occupier; where the charge payer has a severe mental impairment; where a band reduction is appropriate because of disability.

The Policy

Pensioners

It is a legislative requirement that those of Pension Age continue to receive support by way of a Council Tax Reduction on the same terms as would have applied under the Council Tax Benefit scheme. This scheme adopts the provisions as set out in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. Section 3 contains parts of the former Council Tax Benefit scheme which have been introduced to keep consistency between the Council Tax Benefit Reduction Scheme and the previous Council Tax Benefit Scheme in the areas covered in that section.

The legislation sets out the definition of pensioner for the purposes of the scheme. Those not defined as pensioners are by default defined as working age.

It is our understanding that any figures set out in this part of the scheme will be subject to an annual review by the government and that they will be set each year by order of the secretary of state.

The extent of provision for those of Pension Age is a matter for Central Government with one exception. Authorities are free to extend the provisions set out in Section 1 Schedule 5 Paragraph 1 to the extent that they disregard any of those War Pensions in full. The London Borough of Hillingdon has always disregarded those war pensions in full under the Council Tax Benefit scheme and will continue to do so under the Council Tax Reduction scheme.

Working Age

All of the features set out in Sections 2 and 3 of this scheme are features that are determined by The London Borough of Hillingdon.

There is a legal requirement that the London Borough of Hillingdon establishes a Council Tax Reduction Scheme for those of working age. Some of the requirements set out in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 apply to those of working age and feature in Section 1 of this scheme. In section 1 and section 3 there are also some features common for both pensioners and working age.

Caselaw in respect of Council Tax Benefit, Housing Benefit and other social security benefits will be used to help interpret this scheme.

Any omission from this document in relation to the new reduction scheme (as amended) or items not specifically mentioned will not invalidate the scheme or the individual reduction awarded.

Broadly speaking The London Borough of Hillingdon Scheme mirrors the provisions and features of the old Council Tax Benefit scheme with some notable exceptions:

Protected Working Age

The following groups will continue to receive 100% of their assessed entitlement, using the criteria set out in Section 2 of this scheme. That does not mean that they will all receive a 100% reduction, the scheme will still be based upon a means test, taking into account the needs and income of the applicant in order to establish an award. The following groups are protected working age:

- 1 Persons who have the Disability Premium (Schedule 10 paragraphs 9 and 10) included

in the calculation (whether they are in work or out of work). This recognises the additional difficulties this group faces in working because of their disabilities.

- 2 Persons who are in receipt of a War Disablement Pension, War Pension, War Widows Pension or War Widower's Pension, or a guaranteed income payment or survivor's guaranteed income payment under the armed Forces and Reserve Forces Compensation Scheme. This recognises the sacrifice made by those individuals or their partners whilst serving in the armed forces.

Unprotected Working Age

Those applicants that do not fall into one of the protected groups will be assessed using the criteria set out in Section 2 of the scheme. The new scheme is based upon a means test, taking into account the needs and income of the applicant in order to establish a figure. The calculation of entitlement to Council Tax Reduction will be assessed upon 80% of the net Council Tax for that day. The net Council Tax is obtained after deducting any discounts from that day's Council Tax liability.

Alternative Maximum Reduction

The national scheme for those of Pension Age includes an Alternative Maximum Reduction (Previously known as Second Adult Rebate). There will be no such reduction in The London Borough of Hillingdon scheme for those of Working Age.

Backdating

The maximum backdating time limit has reduced from 6 months under the Council Tax Benefit Scheme to 3 months under the Council Tax Reduction Scheme for working age claimants. This 3 month limit is consistent with many Social Security Benefits.

Capital

For working age claimants the capital and tariff income will be assessed with a £10,000 capital disregard. The tariff income will be £1 per week for every £500 or part thereof. If the non disregarded capital exceeds £16000 there will be no entitlement to Council Tax Reduction (as is currently the case).

Annual Up-rating

The figures set out in section 2 of this document are based upon those that apply to Council Tax Benefit in the financial year for 2013/14. It is expected the Department of Communities and Local Government will publish up-rating figures for 2014/15 and hopefully for subsequent years. The authority however reserves the right to establish its own rates using other methods on an annual basis, by resolution of the Council. The deduction rates for travel costs, books and equipment for certain students will be up-rated in accordance with and at the same rates as housing benefit.

Universal Credit

Universal Credit is a new benefit that will start to replace other Welfare Benefits (not Council Tax Reduction) during the life of this scheme. The detail surrounding Universal Credit is yet to be published by the government. At the time of writing this scheme we have adopted an approach to Universal Credit as income for the purposes of this scheme, as set out by government in respect of their “default” scheme

(The Default scheme applies to all authorities that fail to make a scheme by the 31st January in the relevant year).

We reserve the right to change our approach to the way that we treat Universal Credit as income for the purposes of this scheme, and may develop alternative approaches as our understanding develops.

Working Age War Pensioners

Working age War Pensioners (those in the working age protected group set out above) will continue to have their War Pensions disregarded in full under this scheme.

General Provisions

The Council reserves the right to amend any part of the scheme that relates to working age applicants in the current and/or future years to account for changes in legislation that affect the scheme, including but not limited to, the income and/or capital or other circumstances of an applicant used to calculate any part of the reduction scheme. Those amendments may by necessity apply during the relevant year, at the relevant date on which the change takes effect or occurs.

Decision Making on applications under the scheme

At the time of writing this scheme the government have not produced the equivalent of *The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(SI 2001 No.1002)*. The government have stated their intention to amend the *Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992 No.613)* to incorporate those decision making powers that are relevant to reduction schemes. We have incorporated some aspects of the Decisions and Appeals Regulations broadly concerning revision, supersession, late notification, suspension and termination into this scheme to replicate what occurs under the Housing Benefit scheme and the previous Council Tax Benefit scheme.

Transition

A claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement at 31 March 2013.

London Borough of Hillingdon– Draft Council Tax Reduction Scheme

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Explanatory Note as to contents

This scheme incorporates the statutory requirements prescribed in the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012. Those Regulations are made by The Secretary of State in exercise of the powers conferred by section 113(2) of, and paragraph 2 of Schedule 1A to the Local Government Finance Act 1992, and appear in Section 1 of this document.

The remainder of this scheme sets out that part of the Council Tax Reduction scheme made by The Council in exercise of the powers conferred by section 13A(2), and paragraph 2 of Schedule 1A to of the Local government Finance Act 1992, and appear in Section 2 of this document.

For the avoidance of doubt and in the interests of ease of navigation the following summarises those parts of the scheme that apply to those of Pension Age and those of Working age.

Pension Age –

Section 1 – Part 1, Part 2 and Part 3 Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6, Schedule 7, Schedule 8

Section 3 All

Working Age –

Section 1 – Part 1, Part 2 and Part 3 and Schedule 7, Schedule 8

Section 2 -All

Section 3 - All

Section 1

PART 1

General

Citation, commencement and application

1. (1) These Regulations may be cited as the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and come into force on 27 November 2012.
- (2) These Regulations apply in relation to billing authorities in England.
- (3) These Regulations apply in relation to council tax reduction schemes made by billing authorities for financial years beginning on or after 1 April 2013.

Interpretation

2. (1) In these Regulations —

“the 1992 Act” means the Local Government Finance Act 1992;

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996;

“AFIP” means an armed forces independence payment in accordance with an armed and reserve forces compensation scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004.

“alternative maximum council tax reduction” means the amount determined in accordance with Part 5 of Schedule 1 and Schedule 3;

“applicable amount” means the amount calculated in accordance with paragraph 9 of Schedule 1 and Schedule 2;

“applicant” means a person applying for a reduction under a scheme;

“application” means an application for a reduction under a scheme;

“assessment period” means—

- (a) in relation to the earnings of a self-employed earner, in accordance with paragraph 23 of Schedule 1 for the purpose of calculating the weekly earnings of the applicant; or

- (b) in relation to any other income, in accordance with paragraph 20 of Schedule 1 for the purpose of calculating the weekly income of the applicant;

“attendance allowance” means—

- (a) an attendance allowance under Part 3 of the SSCBA;
- (b) an increase of disablement pension under section 104 or 105 of that Act;
- (c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or
- (d) any payment based on need for attendance which is paid as part of a war disablement pension;

“basic rate”, where it relates to the rate of tax, has the meaning given by the Income Tax Act 2007 ;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995, the Welfare Reform Act 2007;

“board and lodging accommodation” means accommodation provided to a family, or if he is a member of a family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises;

“care home” has the meaning given by section 3 of the Care Standards Act 2000(h) and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001(i) and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(j) or a residential care home within the meaning of Article 10 of that Order;

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;

“child” means a person under the age of 16;

“child benefit” has the meaning given by section 141 of the SSCBA;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that

couple;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002 are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007;

“council tax benefit” means council tax benefit under part 7 of the SSCBA

“couple” has the meaning given by regulation 4 of these Regulations;

“Default Scheme Regulations” means the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012;

“designated office” means the office of an authority designated by it for the receipt of applications—

(a) by notice upon or with a form supplied by it for the purpose of making an application;

(b) by reference upon or with such a form to some other document from it and sent by electronic means or otherwise on application and without charge; or

(c) by any combination of the provisions set out in paragraphs (a) and (b);

“disability living allowance” means a disability living allowance under section 71 of the SSCBA;

“earnings” has the meaning given by paragraph 21, 23 or 24 of Schedule 1 as the case may be;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA [and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay];

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

“extended reduction” means a reduction under a scheme for which a person is eligible pursuant to paragraph 41 of Schedule 1;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 42 of Schedule 1;

“extended reduction (qualifying contributory benefits)” means a reduction under Schedule 1 by which a person is eligible pursuant to paragraph 41 or 44 of Schedule 1;

“family” has the meaning given by regulation 6 of these Regulations;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 24th April 1992 or, in Scotland, on 10th April 1992;

“guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;

“a guaranteed income payment” means a payment made under article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;

“housing benefit” means housing benefit under Part 7 of the SSCBA;

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by section 1(4) of the Jobseekers Act 1995;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007;

“independent hospital”—

- (a) in England means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales has the meaning given by section 2 of the Care Standards Act 2000; and
- (c) in Scotland means an independent healthcare service as defined by section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001;

“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“the London Bombings Relief Charitable Fund” means the company limited by

guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996;

“maximum council tax reduction amount” means the amount determined in accordance with paragraph 10 of Schedule 1.

“member of a couple” means a member of a married or unmarried couple;

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;

“mobility supplement” means a supplement to which paragraph 5(1)(a)(v) of Schedule 4 to these Regulations refers;

“mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second billing authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 22 of Schedule 1 to these Regulations;

“net profit” means such profit as is calculated in accordance with paragraph 32 of Schedule 1 to these Regulations;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraph 45 of Schedule 1, the dwelling to which the applicant has moved, or is about to move, in which the applicant will reside;

“non-dependant” has the meaning given by paragraph 9 of Schedule 1 to these Regulations;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner”, in relation to a person, means—

- (a) where that person is a member of a couple, the other member of that couple; or
- (b) where that person is polygamously married to two or more members of his household, any such member to whom he is married;

“paternity leave” means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

“pension fund holder” means with respect to a personal pension scheme or an occupational pension scheme, the trustees, managers or scheme administrators, as the case may be, of the scheme concerned;

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995;

“pensioner” has the meaning given by regulation 3(a) of these Regulations;

“person on income support” means a person in receipt of income support;

“person treated as not being in Great Britain” has the meaning given by regulations 12 to 12B;

“person who is not a pensioner” has the meaning given by regulation 3(b) of these Regulations;

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012;

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993;
- (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having

become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;

- (c) a personal pension scheme approved under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(g) of Schedule 36 to the Finance Act 2004;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage to which regulation 5 of these Regulations applies;

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“qualifying contributory benefit” means—

- (a) severe disablement allowance;
- (b) incapacity benefit;
- (c) contributory employment and support allowance;

“qualifying income-related benefit” means—

- (a) income support;
- (b) income-based jobseeker’s allowance;
- (c) income-related employment and support allowance;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Job Seeker’s Allowance Regulations 1996;

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;

“reduction week” means a period [of seven consecutive days] beginning with a Monday and ending with a Sunday;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant week”, in relation to any particular day, means the week within which the day in question falls;

“remunerative work” has the meaning given by regulation 10;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have acquired the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 29 (non-dependant deductions) of this scheme;

“savings credit” shall be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

“second authority” means the authority to which a mover is liable to make payments for the new dwelling;

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the SSCBA;

“service user group” means a group of individuals that is consulted by or on behalf of—

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995,
- (d) a public authority in consequence of a function relating to disability under section 149 of the Equality Act 2010;
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (i) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- (j) the regulator or a private registered provider of social housing in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;

“single applicant” means an applicant who neither has a partner nor is a lone parent;

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc Act 1993 out of sums allocated to it for distribution under that section;

“the SSCBA” means the Social Security Contributions and Benefits Act 1992;

“state pension credit” means state pension credit under the State Pension Credit Act 2002;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

(a) a course of study at an educational establishment; or

(b) a qualifying course;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

(a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or the Welsh Ministers;

(b) to a person for his maintenance or in respect of a member of his family; and

(c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973 or is training as a teacher;

“the Trusts” means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No 2) Trust and “Trustees” is to be construed accordingly;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“war disablement pension” means 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;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow 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

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a 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;

“water charges” means—

- a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991,
- b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002,

in so far as such charges are in respect of the dwelling which a person occupies as his home;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002;

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA.

- (2) In these Regulations, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.
- (3) For the purpose of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—
 - (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker’s allowance is not payable);
 - b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or

- (c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- (4) For the purposes of these Regulations, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—
- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007 (disqualification); or
 - (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.
- (5) For the purposes of these Regulations, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- (6) In these Regulations, references to any person in receipt of state pension credit include a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002(a) (small amounts of state pension credit).
- (7) In these Regulations, references to a person in class A, B or C (as the case may be) is a reference to class A, B or C described in paragraphs 2 to 4 of Schedule 1.

Meaning of “pensioner” and “person who is not a pensioner”

3. In these Regulations a person is

- (a) a “pensioner” if—
 - (i) he has attained the qualifying age for state pension credit; and
 - (ii) he is not, or, if he has a partner, his partner is not -
 - (aa) a person on income support, on an income-based jobseeker's allowance, or on an income-related employment and support allowance; or
 - (bb) a person with an award of universal credit; and
- (b) a “person who is not a pensioner” if—
 - (i) he has not attained the qualifying age for state pension credit; or

- (ii) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is
 - (aa) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
 - (bb) a person with an award of universal credit.

Meaning of "couple"

4. (1) In these Regulations "couple" means—
- (a) a man and woman who are married to each other and are members of the same household;
 - (b) a man and woman who are not married to each other but are living together as husband and wife;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household; or
 - (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.
- (2) Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

Polygamous marriages

5. (1) This regulation applies to any case where—
- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
 - (b) either party to the marriage has for the time being any spouse additional to the other party.
- (2) For the purposes of regulation 4 neither party to the marriage is to be taken to be a member of a couple.

Meaning of "family"

6. (1) In these Regulations "family" means—
- (a) a couple;
 - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
 - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a

young person.

- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in paragraph (1)(b) and (c) do not include a young person who is —
 - (a) on income support, an income-based jobseeker's allowance or an income-related employment and support allowance; or
 - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

Circumstances in which a person is to be treated as responsible or not responsible for another

7. (1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom regulation 6(2) applies.
- (2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—
 - (a) the person who is receiving child benefit in respect of that child or young person, or
 - (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.
- (3) For the purposes of these Regulations a child or young person is the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this regulation is to be treated as not so responsible.

Households

8. (1) Subject to paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of regulation 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.
- (2) A child or young person is not to be treated as a member of the applicant's

household where he is —

- (a) placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
 - (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
 - (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to paragraph (4), paragraph (1) does not apply to a child or young person who is not living with the applicant and who—
- (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
 - (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
 - (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.
- (4) An authority must treat a child or young person to whom paragraph (3)(a) applies as being a member of the applicant's household in any reduction week where—
- (a) that child or young person lives with the applicant for part or all of that reduction week; and
 - (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.
- (5) In this regulation "relevant enactment" means—
- (a) the Army Act 1955;
 - (b) the Air Force Act 1955;
 - (c) the Naval Discipline Act 1957;
 - (d) the Matrimonial Proceedings (Children) Act 1958;
 - (e) the Social Work (Scotland) Act 1968;
 - (f) the Family Law Reform Act 1969;
 - (g) the Children and Young Persons Act 1969;
 - (h) the Matrimonial Causes Act 1973;
 - (i) the Children Act 1975;

- (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (k) the Adoption and Children (Scotland) Act 2007;
- (l) the Family Law Act 1986;
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995; and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Non-dependants

9. (1) In these Regulations, "non-dependant" means any person, except someone to whom paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.
- (2) This paragraph applies to—
- (a) any member of the applicant's family;
 - (b) if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
 - (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of regulation 8 (households);
 - (d) subject to paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
 - (e) subject to paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;
 - (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies shall be a non-dependant—
- (a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—
 - (i) that person is a close relative of his or his partner; or
 - (ii) the tenancy or other agreement between them is other than on a commercial basis;
 - (b) a person whose liability to make payments in respect of the dwelling

appears to the authority to have been created to take advantage of a scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;

- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the change giving rise to the new liability was not made to take advantage of a scheme.

Remunerative work

- 10.** (1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.
- (2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—
- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
 - (b) in any other case, the period of 5 weeks immediately prior to the date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.
- (3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.
- (4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.
- (5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.
- (6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any

reduction week will be treated as not being in remunerative work in that week.

- (7) A person must not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.
- (8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
 - (a) a sports award has been made, or is to be made, to him; and
 - (b) no other payment is made or is expected to be made to him.

PART 2

Prescribed classes of persons Pensioners

Pensioners

- 11. (1) Subject to paragraph (2), the classes of pensioners described in paragraph 1 of Schedule 1 are classes of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must be included in an authority's scheme.
- (2) Pensioners whose capital exceeds £16,000 are a class of person prescribed for the purposes of that paragraph and which must not be included in an authority's scheme.
- (3) Capital for the purposes of paragraph (2) is to be calculated in accordance with Part 7 of Schedule 1.

Persons treated as not being in Great Britain

- 12. (1) Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's scheme.
- (2) Except where a person falls within paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- (4) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
 - (a) Regulation 13 of the EEA Regulations or Article 6 of Council Directive 2004/38/EC; or

- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen).
- (5) A person falls within this paragraph if the person is—
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
 - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
 - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
 - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
 - (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971 on the rejection of their claim for asylum;
 - (f) a person who has humanitarian protection granted under those rules; or
 - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
- (6) A person falls within this paragraph if the person is a Crown servant or member of Her Majesty’s forces posted overseas.
- (7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty’s forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.
- (8) In this regulation—
- “claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;
- “Crown servant” means a person holding an office or employment under the Crown;

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006; and
“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006.

Persons subject to immigration control

- 13.** (1) Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and who must not be included in an authority’s scheme.
- (2) “Person subject to immigration control” has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

PART 3

Matters that must be included in a scheme

Provision for pensioners

- 14.** (1) A scheme must make provision in respect of pensioners.
- (2) Schedules 1 to 6, which contain those matters that must be included in a scheme in respect of pensioners, have effect.

Provision for all applicants

- 15.** (1) A scheme must include the provisions set out in Schedules 7 and 8.
- (2) The provisions mentioned in paragraph (1) must apply to all applicants for a council tax reduction (both persons who are pensioners and persons who are not pensioners) unless otherwise provided.

SCHEDULE 1 -

Regulation 14(2)

Pensioners: matters that must be included in a scheme

PART 1

Classes of persons entitled to a reduction under this scheme

1. (1) The classes of pensioners described in paragraphs 2 to 4 are entitled to a reduction under a scheme.
- (2) In those paragraphs, references to an applicant's income or capital include, in a case where the income or capital include, in a case where that income or capital cannot be accurately determined, references to the applicant's estimated income or capital.

Class A: pensioners whose income is less than the applicable amount

2. On any day Class A consists of any person who is a pensioner—
 - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of persons prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
 - (e) whose income (if any) for the relevant week does not exceed his applicable amount;
 - (f) who has made an application.

Class B: pensioners whose income is greater than the applicable amount

3. On any day class B consists of any person who is a pensioner—
 - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;

- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax reduction in respect of the day in the applicant's case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- (g) who has made an application.

Class C: alternative maximum council tax reduction

4. (1) On any day class C consists of any person who is a pensioner—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) subject to paragraph 5, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the 1992 Act as a class of person which must not be included in an authority's scheme;
 - (e) who has made an application; and
 - (f) in relation to whom the condition in sub-paragraph (2) is met.
- (2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax reduction in respect of the day in the case of that person which is derived from the income, or aggregate income, of one or more residents to whom this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any other resident of the dwelling who—
- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
 - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
 - (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
 - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be

disregarded for the purposes of discount; or

- (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

Periods of absence from a dwelling

5. (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

(2) In sub-paragraph (1), a “period of temporary absence” means—

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
 - (i) the person resides in that accommodation;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;

- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—

- (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
 - (iii) the person is a person to whom sub-paragraph (3) applies; and
 - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (3) This sub-paragraph applies to a person who—
- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
 - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
 - (ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;
 - (b) is resident in a hospital or similar institution as a patient;
 - (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
 - (d) is following, in the United Kingdom or elsewhere, a training course;
 - (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
 - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
 - (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
 - (h) is a student;
 - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
 - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in

Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); or in Northern Ireland under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986; and

- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he shall be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
 - (b) for the purposes of sub-paragraph (3)(a), he shall be treated as if he remains in detention;
 - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.
- (6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an inpatient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

PART 2

Applicable amounts for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Applicable amounts

6. (1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 to these Regulations;
 - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule;
 - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
 - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

- (2) In Schedule 2—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

PART 3

Maximum Council Tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Maximum council tax reduction amount under this scheme

7. (1) Subject to sub-paragraphs (2) to (4), a person’s maximum council tax reduction amount in respect of a day is 100 per cent of the amount A/B where—
- (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
 - (b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under paragraph 8 (nondependent deductions).

- (2) In calculating a person's maximum council tax reduction under the authority's scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under that authority's scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 75(1) of the Schedule to the Default Scheme Regulations(b) applies.
- (6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

Non-dependant deductions

8. (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 7 are—
 - (a) In respect of a non-dependant aged 18 or over in remunerative work, £10.95 x 1/7;
 - (b) In respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.65 x 1/7.
- (2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—
 - (a) Less than £186.00, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);
 - (b) Not less than £186.00 but less than £322.00, the deduction to be made under this paragraph is £7.25;
 - (c) Not less than £322.00 but less than £401.00, the deduction to be made under this paragraph is £9.15.
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.

- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- (5) Where in respect of a day—
- (a) A person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
 - (b) Other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
 - (c) The person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) Blind or treated as blind by virtue of sub-paragraphs (12) or (13) below; or
 - (b) Receiving in respect of himself either—
 - (i) Attendance allowance, or would be receiving that allowance but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (ii) The care component of the disability living allowance, or would be receiving that component, but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (iii) The daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
 - (iv) An AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

- (7) No deduction is to be made in respect of a non-dependant if—
- (a) Although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
 - (b) He is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) He is a full-time student within the meaning of Part 11 of the Schedule to the Default Scheme Regulations (students); or
 - (d) He is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
 - (i) “Patient” has the meaning given in paragraph 5(6) of this Schedule, and
 - (ii) Where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (8) No deduction is to be made in respect of a non-dependant—
- (a) Who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance; or
 - (b) To whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant’s weekly gross income—
- (a) Any attendance allowance, disability living allowance, personal Independence payment or AFIP received by him;
 - (b) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which are paid as income in kind (see sub-paragraph (13)); and
 - (c) The payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);

- (b) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
 - (i) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (c) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
 - (i) the person who is suffering from haemophilia or who is a qualifying person;
 - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (d) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
 - (i) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family;
and
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or

- (bb) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death;
 - (e) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
 - (i) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or stepparent, or his guardian, but only for a period of two years from the relevant date;
 - (f) in the case of a person to whom or for whose benefit a payment referred to in this subparagraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (11) An applicant, or as the case may be, his partner is blind or treated as blind for the purposes of sub-paragraph (6)(a) if the applicant or his partner is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.
- (12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered.
- (13) The reference in sub-paragraph (9)(b) to "income in kind" does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

PART 4

Alternative maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Alternative maximum council tax reduction under a scheme

9. (1) Subject to sub-paragraphs (2) and (3), the alternative maximum council tax reduction in respect of a day where the conditions set out in paragraph 4 (alternative maximum council tax reduction) are fulfilled, is the amount determined in accordance with Schedule 3 (amount of alternative maximum council tax reduction).
- (2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax reduction in his case, the amount determined in accordance with Schedule 3 must be divided by the number of persons who are jointly and severally liable for that tax.
- (3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

PART 5

Amount of reduction under this scheme

Amount of reduction under a scheme: Classes A to C

10. (1) Where a person is entitled to a reduction under a scheme in respect of a day, the amount of the reduction to which he is entitled is as follows.
- (2) Where the person is within class A, the amount which is the appropriate maximum council tax reduction in his case.
- (3) Where the person is within class B, the amount found by deducting amount B from amount A, where “amount A” and “amount B” have the meanings given in paragraph 3 of this Schedule (income greater than applicable amount).
- (4) Where the person is within class C, that amount is the amount which is the alternative maximum council tax reduction in respect of the day in the applicant’s case.
- (5) Sub-paragraph (6) applies where both—
- (a) sub-paragraph (2) or sub-paragraph (3), and
- (b) sub-paragraph (4), apply to a person.
- (6) The amount of the reduction to which he is entitled is whichever is the greater of—

- (a) the amount of the reduction given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
- (b) the amount of the reduction given by sub-paragraph (4).

PART 6

Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

CHAPTER 1

General

Income and capital: applicant's family and polygamous marriages

- 11.** (1) The income and capital of—
- (a) an applicant; and
 - (b) any partner of that applicant,
- is to be calculated in accordance with the provisions of this Part.
- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of the applicant.
- (3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—
- (a) the applicant shall be treated as possessing capital and income belonging to each such member; and
 - (b) the income and capital of that member shall be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

Circumstances in which income and capital of non-dependant is to be treated as applicant's

- 12.** (1) Sub-paragraph (2) applies where it appears to an authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of a scheme and the non-dependant has more income and capital than the applicant.
- (2) Except where the applicant is on a guarantee credit the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess will be disregarded.
- (3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant will be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of

this Part as if it were a reference to that non-dependant.

CHAPTER 2

Income

Applicant in receipt of guarantee credit

- 13.** In the case of an applicant who is in receipt, or whose partner is in receipt, of a guarantee credit, the whole of his capital and income shall be disregarded.

Calculation of applicant's income in savings credit only cases

- 14.** (1) In determining the income and capital of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, an authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit.
- (2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—
- (a) the amount of any savings credit payable;
 - (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 24(1)(c) (calculation of income on a weekly basis);
 - (c) the higher amount disregarded under this Schedule in respect of—
 - (i) lone parent's earnings; or
 - (ii) payments of maintenance, whether under a court order or not, which are made or due to be made by—
 - (aa) the applicant's former partner, or the applicant's partner's former partner; or
 - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
 - (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 4 (sums disregarded from earnings);
 - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under regulation 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;

- (f) paragraph 12 (circumstances in which income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
 - (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act;
 - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 4.
- (3) Paragraphs 16 to 36 of this Schedule do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).
- (4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 31 to 36 of this Schedule.
- (5) This sub-paragraph applies if—
- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less;
 - (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
 - (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

Calculation of income and capital where state pension credit is not payable

- 15.** Where neither paragraph 13 (applicant in receipt of guarantee credit) nor 14 (calculation of income in savings credit only cases) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 16 to 21, 24, 25, 27 to 29 and chapter 3 (capital) of this Part.

Meaning of "income"

- 16.** (1) For the purposes of classes A to C, "income" means income of any of the following descriptions—
- (a) earnings;
 - (b) working tax credit;
 - (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
 - (d) income from annuity contracts (other than retirement pension income);
 - (e) a war disablement pension or war widow's or widower's pension (fully disregarded);

- (f) a foreign war disablement pension or war widow's or widower's pension;
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, in any case where article 31(2)(c) applies;
- (i) income from capital other than capital disregarded under Part 1 of Schedule 6 to these Regulations;
- (j) social security benefits, other than retirement pension income or any of the following benefits—
 - (i) disability living allowance;
 - (ii) personal independence payment;
 - (iii) An AFIP;
 - (iv) attendance allowance payable under section 64 of the SSCBA;
 - (v) an increase of disablement pension under section 104 or 105 of that Act;
 - (vi) child benefit;
 - (vii) any guardian's allowance payable under section 77 of the SSCBA;
 - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act;
 - (viii) Any -
 - (aa) any social fund payment made under Part 8 of that Act; or
 - (bb) occasional assistance
 - (x) Christmas bonus payable under Part 10 of that Act;
 - (xi) housing benefit;
 - (xii) [council tax benefit;]
 - (xiii) bereavement payment;
 - (xiv) statutory sick pay;
 - (xv) statutory maternity pay;
 - (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA;
 - (xvii) additional statutory paternity pay payable under Part 12ZA of that act;

- (xviii) statutory adoption pay payable under Part 12ZB of that Act;
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits prescribed above;
- (l) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006, in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc (Worker's Compensation) Act 1979;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
 - (i) under a court order;
 - (ii) under an agreement for maintenance; or
 - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-

- health or disability;
- (t) any sum payable by way of pension out of money provided under—
 - (i) the Civil List Act 1837,
 - (ii) the Civil List Act 1937,
 - (iii) the Civil List Act 1952,
 - (iv) the Civil List Act 1972, or
 - (v) the Civil List Act 1975
 - (u) any income in lieu of that specified in paragraphs (a) to (r);
 - (v) any payment of rent made to an applicant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of the property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
 - (w) any payment made at regular intervals under an equity release scheme;
 - (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.
- (2) Where the payment of any social security benefit referred to in sub-paragraph (1) is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.
- (3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (4) The adjustments specified in this paragraph are those made in accordance with—
- (a) the Social Security (Overlapping Benefits) Regulations 1979;
 - (b) the Social Security (Hospital In-Patients) Regulations 1975;
 - (c) section 30DD or section 30E of the SSCBA (reductions in incapacity benefit in respect of pensions and councillor's allowances);
 - (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's

allowances) and regulations made under it.

(5) In sub-paragraph (1)—

(a) in paragraph (w) an “equity release scheme” means a loan—

(i) made between a person (“the lender”) and the applicant;

(ii) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and

(iii) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home; and

(b) in paragraph (J)(ix) “occasional assistance” means any payment or provision made by a local authority, the Welsh Ministers or the Scottish Ministers for the purposes of—

(i) meeting, or helping to meet an immediate short-term need—

(aa) arising out of an exceptional event or exceptional circumstances,
or

(bb) that needs to be met to avoid a risk to the well-being of an individual; and

(ii) enabling qualifying individuals to establish or maintain a settled home, and “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—

(aa) in prison, hospital, an establishment providing residential care or other institution, or

(bb) homeless or otherwise living an unsettled way of life.

(6) In sub-paragraph (5)(b) “local authority” means a local authority in England within the meaning of the Local Government Act 1972.

Calculation of weekly income

17. (1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant, where the period in respect of which payment is made—

(a) does not exceed a week, the whole of that payment will be included in the applicant’s weekly income;

(b) exceeds a week, the amount to be included in the applicant’s weekly income will be determined—

- (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
 - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.
- (2) Sub-paragraph (3) applies where—
 - (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
 - (b) the amount of the applicant's income fluctuates and has changed more than once.
- (3) The weekly amount of that applicant's income will be determined—
 - (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
 - (b) in any other case, on the basis of—
 - (i) the last two payments if those payments are one month or more apart;
 - (ii) the last four payments if the last two payments are less than one month apart; or
 - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.
- (4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.
- (5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment will be treated as if made in respect of a period of a year.
- (6) This sub-paragraph applies to—
 - (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;

- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
 - (c) any payment which is made on an occasional basis.
- (7) The period under which any benefit under the benefit Acts is to be taken into account shall be the period in respect of which that benefit is payable.
 - (8) Where payments are made in a currency other than Sterling, the value of the payment shall be determined by taking the Sterling equivalent on the date the payment is made.
 - (9) The sums specified in Schedule 4 to these Regulations will be disregarded in calculating—
 - (a) the applicant's earnings; and
 - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
 - (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in paragraph (6) shall be treated as though they were earnings.
 - (11) Income specified in Schedule 5 to these Regulations is to be disregarded in the calculation of the applicant's income.
 - (12) Schedule 6 (capital disregards) has effect so that—
 - (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
 - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 37 (calculation of tariff income from capital).
 - (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

Earnings of employed earners

18. (1) Subject to sub-paragraph (2), "earnings" means in the case of employment as an employed earner, means any remuneration or profit derived from that employment and includes—
 - (a) any bonus or commission;

- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice;
 - (d) any holiday pay;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
 - (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001;
 - (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
 - (i) statutory paternity pay payable under Part 12ZA of that Act;
 - (j) ordinary statutory paternity pay payable under Part 12ZA of that Act;
 - (k) additional statutory paternity pay payable under Part 12ZA of that Act;
 - (l) statutory adoption pay payable under Part 12ZB of that Act;
 - (m) any sums payable under a contract of service—
 - (i) for incapacity for work due to sickness or injury; or
 - (ii) by reason of pregnancy or confinement.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any lump sum payment made under the Iron and Steel Re-adaptation

Benefits Scheme;

- (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996 in respect of unfair dismissal or unlawful discrimination;
 - (f) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in paragraph (1)(g).

Calculation of net earnings of employed earners

- 19.** (1) For the purposes of paragraph 24 (calculation of income on a weekly basis), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 17(5) and Schedule 4 (sums disregarded from earnings), be his net earnings.
- (2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 contributions under the SSCBA;
 - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
 - (c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and
 - (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.
- (3) In this regulation “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (4) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying contribution is to be determined—
- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by

365;

- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (5) Where the earnings of an applicant are determined under paragraph 17(2)(b) (calculation of weekly income), as the case may be, his net earnings are to be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 35, 36 or 37 of the Income Tax Act 2007 as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
 - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
 - (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Calculation of earnings of self-employed earners

20. (1) Where the earnings of an applicant consist of earnings from employment as a self-employed earner, the weekly amount of his earnings must be determined by reference to his average weekly earnings from that employment—
- (a) over a period of one year; or
 - (b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.
- (2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product will be multiplied by 7.
- (3) The period over which the weekly amount of an applicant’s earnings is calculated in accordance with this paragraph will be his assessment period.

Earnings of self-employers earners

21. (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner, means the gross income of the employment.

- (2) “Earnings” in the case of employment as a self-employed earner does not include—
- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
 - (b) any payment made by a local authority to an applicant—
 - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989 or, as the case may be, section 26(1) of the Children (Scotland) Act 1995; or
 - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;
 - (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989;
 - (d) any payment made to the applicant or his partner for a person (“the person concerned”) who is not normally a member of the applicant’s household but is temporarily in his care, by—
 - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
 - (ii) a voluntary organisation;
 - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
 - (v) The National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006; or
 - (vi) a Local Health Board established by an order made under section 11 of the National Health Service (Wales) Act 2006;
 - (e) any sports award.

Notional income

- 22.** (1) An applicant is to be treated as possessing—
- (a) subject to sub-paragraph (2), the amount of any retirement pension income—
 - (i) for which no claim has been made; and
 - (ii) to which he might expect to be entitled if a claim for it were made;

- (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) will not apply to the following where entitlement has been deferred—
- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
 - (b) a shared additional pension payable under section 55A of the SSCBA;
 - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965.
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
 - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
 - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—
- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
 - (b) fails to purchase an annuity with the funds available in that scheme; and
 - (c) either—
 - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
 - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
 - (iii) income withdrawal is not available to him under that scheme.
- (5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.
- (6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the maximum amount of income which may be withdrawn from the fund and must be determined by the authority, taking account of information provided by the pension fund holder.

- (7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies will be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).
- (8) In sub-paragraph (4), “money purchase benefits” has the meaning it has in the Pensions Scheme Act 1993.
- (9) Subject to sub-paragraphs (10) and (12), a person will be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under the authority’s scheme or increasing the amount of the reduction.
- (10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.
- (11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.
- (13) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.
- (14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with paragraph (13), the authority must—
 - (a) determine the income and capital of that applicant in accordance with paragraph 14(1) (calculation of applicant's income in savings credit only cases) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
 - (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).
- (15) For the purposes of sub-paragraph (9), a person is not to be regarded as

depriving himself of income where—

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from that scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.

(16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

Income paid to third parties

23. (1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of the applicant is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
- (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (c) the person referred to in paragraph (a) and his partner do not possess, or are not treated as possessing, any other income apart from that payment.

(3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participation in a service user group.

Calculation of income on a weekly basis

24. (1) Subject to paragraph 28 (disregard of changes in tax, etc) the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
- (b) by adding to that amount the weekly income calculated under paragraph 37 (calculation of tariff income from capital); and
- (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 25 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that

subparagraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

- (2) The conditions of this paragraph are that—
 - (a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
 - (b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

- (3) The maximum deduction to which paragraph (1)(c) above refers shall be—
 - (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
 - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

Treatment of child care charges

- 25.** (1) This paragraph applies where an applicant is incurring relevant child care charges and—
- (a) is a lone parent and is engaged in remunerative work;
 - (b) is a member of a couple both of whom are engaged in remunerative work; or
 - (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;
 - (ii) is an in-patient in hospital; or
 - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—
- (a) is paid statutory sick pay;
 - (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
 - (c) is paid an employment and support allowance;

- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987; or
 - (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
 - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- (4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- (5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and shall be calculated on a weekly basis in accordance with subparagraph (9).
- (6) The charges are paid by the applicant for care which is provided—
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
 - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- (7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—
- (a) in respect of the child's compulsory education;
 - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with regulation 7 (circumstances in which a person is treated as responsible or not responsible for another); or
 - (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- (8) The care to which paragraph (7) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local

authority—

- (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
 - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
- (b) by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
- (e) by—
- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
 - (ii) local authorities registered under section 83(1) of that Act,

where the care provided is child minding or day care of children within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services (England) Regulations 2011, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is

looking after; or

- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010(j) and being a regulated activity prescribed by those Regulations; or
 - (m) by a person who is not a relative of the child wholly or mainly in the child's home.
- (9) Relevant child care charges are to be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- (10) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) he is aged not less than 80;
 - (b) he is aged less than 80, and—
 - (i) an additional condition specified in paragraph 26 is treated as applying in his case; and
 - (ii) he satisfies that condition or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (c) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
 - (d) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
 - (e) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
 - (f) there is payable in respect of him one or more of the following pensions or allowances—

- (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance;
 - (v) personal independence payment;
 - (vi) an AFIP;
 - (vii) increase of disablement pension under section 104 of the SSCBA;
 - (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
 - (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free inpatient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (h) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—
- (i) a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
- (i) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
- (j) an AFIP would be payable to that person but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution.
- (k) paragraph (f), (g), (h) or (i) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or

- (l) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (11) For the purposes of sub-paragraph (10), once sub-paragraph (10)(d) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph is to, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
 - (12) For the purposes of sub-paragraph (10), once sub-paragraph (10)(e) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is to, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
 - (13) For the purposes of paragraphs (6) and (8)(a), a person is disabled if he is a person—
 - (a) to whom an attendance allowance or care component of disability allowance is payable or would be payable but for—
 - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
 - (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
 - (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
 - (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
 - (14) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided

that—

- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;
 - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
 - (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171 ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.
- (15) For the purposes of sub-paragraph (14) the relevant period begins on the day on which the person’s maternity, paternity leave or adoption leave commences and shall end on—
- (a) the date that leave ends;
 - (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
 - (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay, or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends,

Whichever shall occur first.

(16) In sub-paragraphs (14) and (15)—

- (a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations 1987; and
- (b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

(17) In sub-paragraphs (6), (8)(a) and (13)(d), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

Additional condition referred to in paragraph 25(10)(b)(i) : disability

26. (1) Subject to sub-paragraph (2), the additional conditions referred to in paragraph 25(10)(b)(i) are that either—
- (a) the applicant or, as the case may be, the other member of the couple—

- (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
- (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit (for the period prior to 1st April 2013) or a reduction under this scheme (for the period on or after 1st April 2013) and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
- (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 25(10)(g) (treatment of child care charges); or
- (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 25(10)(g); or
- (v) was in receipt of an AFIP but its payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution; or
- (vi) is provided by the Secretary of State or a clinical commissioning group with an invalid carriage or other vehicle under section of schedule 1 of the National Health Service Act 2006 or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 10(3) of Schedule 1 to the Act of 2006 or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
- (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf

of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

- (b) the applicant, or as the case may be the other member of the couple —
 - (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
 - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
 - (bb) in any other case, 364 days.
- (2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (3) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods must be treated as one continuous period.
- (4) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the SSCBA (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.
- (5) In the case of a person who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA) the reference to a period of 56 days in sub-paragraph (3) must be treated as a reference to a period of 104 weeks.

Calculation of average weekly income from tax credits

- 27.** (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).
 - (3) Where the instalment in respect of which payment of a tax credit is made is—
 - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
 - (b) a weekly instalment, the period is 7 days, ending on the day on which the

instalment is due to be paid;

- (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
- (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

Disregard of changes in tax, contributions etc

28. In calculating the applicant’s income an authority may disregard any legislative change—

- (a) in the basic or other rates of income tax;
- (b) in the amount of any personal tax relief;
- (c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
- (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;
- (e) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the reduction week immediately following the date from which the change is effective.

Calculation of net profit of self-employed earners

29. (1) For the purposes of paragraph 24 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account are—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 30 (deduction of tax and contributions of self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;

- (2) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (8) applies, be calculated by taking into account the earnings of the employment over the assessment period less—
 - (a) subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
 - (b) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 30; and
 - (c) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (3) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (4) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- (4) Subject to sub-paragraph (5), no deduction is to be made under paragraph (2)(a) or (3), in respect of—
 - (a) any capital expenditure;
 - (b) the depreciation of any capital asset;
 - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
 - (d) any loss incurred before the beginning of the assessment period;
 - (e) the repayment of capital on any loan taken out for the purposes of the employment; and
 - (f) any expenses incurred in providing business entertainment.
- (5) A deduction must be made under sub-paragraph (2)(a) or (3) in respect of the repayment of capital on any loan used for—
 - (a) the replacement in the course of business of equipment or machinery; or
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (6) The relevant authority must refuse to make a deduction in respect of any expenses under sub-paragraph (2)(a) or (3) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (7) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (2)(a) or (3) in respect of any sum unless it has been expended for the purposes of the business;
 - (b) a deduction must be made there under in respect of—
 - (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (8) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 30; and
 - (b) one-half of the amount calculated in accordance with sub-paragraph (10) in respect of any qualifying premium.
- (9) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.
- (10) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium is to be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
 - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- (11) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

Calculation of deduction of tax and contributions of self-employed earners

- 30.** (1) The amount to be deducted in respect of income tax under paragraph

29(1)(b)(i), (2)(b)(i) or (8)(a)(i) (calculation of net profit of self-employed earners) is to be calculated—

- (a) on the basis of the amount of chargeable income; and
 - (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35, 36 or 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances.
- (2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.
- (3) The amount to be deducted in respect of social security contributions under paragraph 29(1)(b)(i), (2)(b)(ii) or (8)(a)(ii) is the total of—
- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
 - (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.
- (4) In this paragraph "chargeable income" means—
- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (3) of paragraph 29;
 - (b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER 3

Capital

Calculation of capital

- 31.** (1) The capital of an applicant to be taken into account must, subject to sub-paragraph (2), be the whole of his capital calculated in accordance with this Part.

- (2) There must be disregarded from the calculation of an applicant's capital under subparagraph (1), any capital, where applicable, specified in Schedule 6 (capital disregards).
- (3) An applicant's capital is to be treated as including any payment made to him by way of arrears of—
 - (a) child tax credit;
 - (b) working tax credit;
 - (c) state pension credit,

if the payment was made in respect of a period for the whole or part of which a reduction under this scheme was allowed before those arrears were paid.

Calculation of capital in the United Kingdom

- 32.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—
- (a) where there would be expenses attributable to the sale, 10 per cent; and
 - (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

- 33.** Capital which an applicant possesses in a country outside the United Kingdom is to be calculated—
- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
 - (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

Notional Capital

- 34.** (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction under this authority's scheme or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 35 (diminishing notional capital rule).
- (2) A person who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,

Is to be regarded as not depriving himself of it.

- (3) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—
 - (a) the value of his holding in that company must, notwithstanding paragraph 31 (calculation of capital) be disregarded; and
 - (b) he must, subject to sub-paragraph (4), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (4) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (3) is to be disregarded.
- (5) Where an applicant is treated as possessing capital under sub-paragraph (1) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule

- 35.** (1) Where an applicant is treated as possessing capital under paragraph 34(1) (notional capital), the amount which he is treated as possessing—
- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions,
 is to be reduced by an amount determined under sub-paragraph (3);
 - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied,
 is to be reduced by the amount determined under sub-paragraph (5).

- (2) This sub-paragraph applies to a reduction week where the applicant satisfies the conditions that—
 - (a) he is in receipt of a reduction under this scheme; and
 - (b) but for paragraph 34(1), he would have received a greater reduction under that scheme in that week.
- (3) In a case to which sub-paragraph (2) applies, the amount of the reduction in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is to be equal to the aggregate of—
 - (a) an amount equal to the additional amount of the reduction in council tax to which subparagraph (2)(b) refers;
 - (b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);
 - (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of that reduction week to which paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);
 - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the reduction week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b), the condition is that the applicant would have been entitled to a reduction in council tax under the authority's scheme in the relevant week but for paragraph 34(1).
- (5) In such a case the amount of reduction in the amount of the capital which he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—
 - (a) the amount of the reduction in council tax to which the applicant would have been entitled in the relevant week but for paragraph 34(1);
 - (b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations

- (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
- (c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week, within the meaning of regulation 2 of those Regulations (interpretation), which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,
 - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
 - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d), or (e) of sub-paragraph (5) (“the relevant amount”) is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part week, and
 - (b) multiplying the result of that calculation by 7.
- (7) The amount determined under sub-paragraph (5) must be re-determined under that subparagraph if the applicant makes a further application for a reduction in council tax under the authority's scheme and the conditions in sub-paragraph (8) are satisfied, and in such a case—
- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
 - (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (8) The conditions are that—
- (a) a further application is made 26 or more weeks after—

- (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 34(1) ;
- (ii) in a case where there has been at least one re-determination in accordance with subparagraph (5), the date on which he last made an application which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to a reduction in council tax under the authority's scheme,

whichever last occurred; and

- (b) the applicant would have been entitled to a reduction under the authority's scheme but for paragraph 34(1).
- (9) The amount as re-determined pursuant to sub-paragraph (7) does not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to the amounts in sub-paragraph (5)(a) means a period of less than a week for which a reduction in council tax under this scheme is allowed;
- (b) in relation to the amounts in sub-paragraph (5)(b) means a period of less than a week for which housing benefit is payable;
- (c) in relation to the amounts in sub-paragraph (5)(c), (d) or (e) means—
 - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(ii) any other period of less than a week for which it is payable;

“relevant week” means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 34(1) —

- (a) was first taken into account for the purpose of determining his entitlement to a council tax reduction under this scheme; or
- (b) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to a reduction in council tax on that subsequent occasion and that determination or re-determination

resulted in his beginning to receive, or ceasing to receive, a reduction in council tax under this scheme; and where more than one reduction week is identified by reference to paragraphs (a) and (b) of this definition the later or latest such reduction week or, as the case may be, the later or latest such part-week of the relevant week;

“relevant subsequent week” means the reduction week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

Capital jointly held

- 36.** Except where an applicant possesses capital which is disregarded under paragraph 34(4) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

Calculation of tariff income from capital

- 37.** The capital of an applicant, calculated in accordance with this Part, is to be treated as if it were a weekly income of-
- (a) £1 for each £500 in excess of £10,000; but not exceeding £16000; and
 - (b) £1 for any excess which is not a complete £500.

PART 7

Extended reductions

Extended reduction (qualifying contributory benefits)

- 38.** (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to a reduction under a scheme (by virtue of falling within any of the classes A to C) is entitled to an extended reduction (qualifying contributory benefits) where—
- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
 - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,

and that employment is or, as the case may be, increased earnings or increased number of hours are, expected to last five weeks or more;

- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
 - (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of falling within any of the classes A-C where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
 - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
 - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits)

- 39.** (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
 - (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits)

- 40.** (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax reduction to which the applicant was entitled by virtue of falling within any of the classes A to C in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
 - (b) the amount of reduction under the authority's scheme to which the applicant would be entitled by virtue of falling within any of the classes A to C for any reduction week during the extended reduction period, if paragraph 38 (extended reductions (qualifying contributory benefits)) did not apply to the applicant; or
 - (c) the amount of reduction under the authority's scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 41 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction (qualifying contributory benefits) under this paragraph and the applicant's partner makes a claim for a reduction under the authority's scheme, no reduction shall be awarded during the extended reduction period.

Extended reductions (qualifying contributory benefits): movers

- 41.** (1) This paragraph applies—
- (a) to a mover; and
 - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction (qualifying contributory benefit) awarded from the Monday from which this paragraph applies until the end of the extended reduction period is the amount of reduction under the authority's ("the first authority") scheme which was payable to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended reduction (qualifying contributory benefits) may take the form of a payment from the first authority to—
- (a) the second authority; or
 - (b) the mover directly.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to a council tax reduction by virtue of classes A to C

- 42.** (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the

circumstances listed in paragraph 38(1)(b) (extended reductions: qualifying contributory benefits), that reduction does not cease to have effect until the end of the extended reduction period.

- (2) Part 9 (period of entitlement and changes of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 40(1)(a) or paragraph 41(2) (amount of extended reduction: movers).

Continuing reductions where state pension credit claimed

43. (1) This paragraph applies where—

(a) the applicant is entitled to a reduction under this scheme;

(b) sub-paragraph (2) is satisfied; and

(c) either—

(i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or

(ii) The applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

(a) the applicant's award of—

(i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or

(ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and

(b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to a reduction under the authority's scheme for the period of 4 weeks beginning on the day following the day on which the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to a reduction under that scheme.

(4) Where a reduction under that scheme is awarded for the period of 4 weeks in

accordance with sub-paragraph (3), and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under the scheme shall continue to be awarded until the end of the reduction week in which the last day of that period falls.

- (5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—
 - (a) the whole of the income and capital of the applicant is to be disregarded;
 - (b) the maximum council tax reduction amount of the applicant is to be that which was applicable in his case immediately before that period commenced.
- (6) The appropriate maximum council tax reduction amount is to be calculated in accordance with paragraph 7(1) if, since the date it was last calculated—
 - (a) the applicant's council tax liability has increased; or
 - (b) a change in the deduction under paragraph 8 (non dependent deductions) falls to be made.

Extended reductions: movers into an authority's area

44. Where—

- (a) an application is made to a billing authority (“the current authority”) for a reduction under this scheme, and
- (b) The applicant, or the partner of the applicant, is in receipt of an extended reduction from—
 - (i) another billing authority in England;
 - (ii) a billing authority in Wales;

the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.

PART 8

When entitlement begins and change of circumstances

Date on which entitlement begins

45. (1) Subject to sub-paragraph (2), any person to whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction is so entitled from the reduction week following the date on which that application is made or is treated as made.
- (2) Where a person is otherwise entitled to a reduction under that scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he shall be so entitled from that reduction week.

Date on which change of circumstances is to take effect

46. (1) Except in cases where paragraph 28 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and paragraph 47, a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 11A (discounts) of that Act, it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (2) to (6) above refers, or, where more than one day is concerned, from the earlier day.

- 8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authorities scheme.
- (9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.
- (10) Sub-paragraph (11) applies if—
- (a) the applicant or the applicant's partner has attained the age of 65; and
 - (b) either—
 - (i) a non-dependant took up residence in the applicant's dwelling; or
 - (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 8 (non dependent deductions) increased.
- (11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.
- (12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—
- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
 - (i) the date on which the applicant's entitlement to a reduction under the authority's scheme first began;
 - or
 - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
 - (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.
- (13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is the first day of the next reduction week to commence after the date determined under that sub-paragraph.

Change of circumstances where state pension credit in payment

47. (1) Sub-paragraphs (2) and (3) apply where—
- (a) an applicant is in receipt of state pension credit;
 - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
 - (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a reduction he receives under this scheme.
- (2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—
- (a) an increase in the reduction he receives under the scheme, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the increased rate; or
 - (b) a decrease in the reduction he receives under the scheme, the change takes effect from the first day of the reduction week next following the date on which—
 - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
 - (ii) state pension credit is increased,whichever is the later.
- (3) Where the change of circumstance (the relevant change) is that the applicant's state pension credit has been reduced and in consequence the reduction the applicant receives under the authority's scheme reduces—
- (a) in a case where the applicant's state pension credit is reduced because the applicant failed to notify the Secretary of State timeously of the change of circumstances, the relevant change takes effect from the first day of the reduction week from which state pension credit was reduced; or
 - (b) in any other case the change takes effect from the first day of the reduction week next following the date on which—
 - (i) the authority receives notification from the Secretary of State of the reduction in the amount of state pension credit; or
 - (ii) state pension credit is reduced,whichever is the later.
- (4) Where the change of circumstance is that state pension credit is reduced and in

consequence of the change, the amount of a reduction the applicant receives under the authority's scheme is increased, the change takes effect from the first day of the reduction week in which state pension credit becomes payable at the reduced rate.

- (5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of reduction he receives under the authority's scheme, the change takes effect from the first day of the reduction week next following the date on which—

(a) the authority receives notification from the Secretary of State of the award of state pension credit; or

(b) Entitlement to state pension credit begins,

whichever is the later.

- (6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

(a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and

(b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of reduction the applicant receives under the authority's scheme, the change of circumstances referred to in paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

- (7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of a reduction the applicant receives under the authority's scheme, the change takes effect from the first day of the reduction week next following the date in respect of which the guarantee credit is first payable.

- (8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 43 (continuing reductions where state pension credit claimed), that change takes effect on the first day of the first reduction week to commence after the expiry of the 4 week period.

- (9) In this paragraph—

“official error” means an error made by—

(a) An authority or a person—

(i) authorised to carry out any function of an authority relating to its scheme; or

- (ii) providing services relating to its scheme directly or indirectly to the authority; or
- (b) an officer of—
 - (i) the Department for Work and Pensions; or
 - (ii) the Commissioners of Inland Revenue,

acting as such, but excludes any error caused wholly or partly by any person or body not specified in paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant's or, as the case may be, the applicant's partner's income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 14(1) (calculation of applicants income in savings credit only cases).

SCHEDULE 2

r14 (2)

Applicable amounts

PART 1

Personal allowances

Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 6(1)(a) of Schedule 1.

Child or young person amounts

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent— (a) aged under 65; (b) aged 65 or over.	£145.40 £163.50
(2) Couple (a) both members aged under 65; (b) One or both members aged 65 or over.	£222.05 £244.95
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65— (a) for the applicant and the other party to the marriage; (b) For each additional spouse who is a member of the same household as the applicant.	£222.05 £76.65
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over— (a) for the applicant and the other party to the marriage; (b) For each additional spouse who is a member of the same household as the applicant.	£244.95 £81.45

Child or Young Persons Amounts

2. (1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 6(1)(b) of Schedule 1.

<i>Column (1) Child or young person Person in respect of the period—</i>	<i>Column (2) Amount</i>
(a) Beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£65.62
(b) Beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	£65.62

- (2) In column (1) of the table “the first Monday in September” means the Monday which first occurs in the month of September in any year.

PART 2

Family premium

Family premium

3. The amount for the purposes of paragraph 6(1)(c) of Schedule 1 in respect of a family of which at least one member is a child or young person is £17.40.

PART 3

Premiums

Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 6(1)(d) of Schedule 1, applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.
5. Subject to sub-paragraph (2), for the purposes of this Part, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for—
- in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
 - any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

- (2) For the purposes of the carer premium under paragraph 9, a person shall be

treated as being in receipt of a carer's allowance by virtue of subparagraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012 or an AFIP.

Severe disability premium

6. (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or a AFIP; and
 - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
 - (iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;
- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or an AFIP;
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
 - (iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the

marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.
- (4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.
- (5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—
 - (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment paid at either rate prescribed in accordance with part 4 of the Welfare Reform Act 2012, or an AFIP; or
 - (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).
- (7) For the purposes of sub-paragraph (2)(b) a person is to be treated—
 - (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
 - (b) as being in receipt of the daily living component of personal independence payment and at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so entitled in receipt notwithstanding section 86 of the Act and regulations made thereunder;
 - (c) as being in receipt of an AFIP, if he would, but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
 - (c) as being entitled to and in receipt of a carer's allowance if he would, but for

the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

- (8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—
- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
 - (b) a reference to a person being in receipt of a carer's allowance it to include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

Enhanced disability premium

7. (1) The condition is—
- (a) that the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act in respect of a child or young person who is a member of the applicant's family; or
 - (b) (as the case may be) that the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate under section 78(2) of that Act,
- (2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

Disabled child premium

8. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
 - (b) is blind within the meaning of paragraph 6(4) of this Schedule or treated as blind in accordance with paragraph 6(5); or
 - (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed

under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

9. (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance.

(2) Where a carer premium has been awarded but—

(a) the person in respect of whose care the carer's allowance has been awarded dies; or

(b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,

This paragraph shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

(3) The relevant date for the purposes of sub-paragraph (2) is—

(a) in a case within sub-paragraph (2)(a) the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);

(b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

Person in receipt of benefit

11. For the purposes of this Part, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

PART 4

Amounts of premium specified in Part 3

<i>Provision</i>	<i>Amount</i>
12.(1) Severe Disability Premium—	(1)
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	£59.50
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	£59.50
(ii) in a case where there is no-one in receipt of such an allowance.	£119.00
(2) Enhanced disability premium.	£23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.
(3) Disabled Child Premium.	£57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium	£33.30 in respect of each person who satisfies the condition specified in paragraph 9.

SCHEDULE 3
r14(2)

Amount of alternative maximum council tax reduction

1. (1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 9 of Schedule 1 is determined in accordance with the following Table and in this Table—
 - (a) “Second adult” means any person or persons residing with the applicant to whom paragraph 4(2) of Schedule 1 applies (class C); and
 - (b) “person to whom paragraph 75(1) of Schedule 1 to the Default Scheme Regulations applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.

- (2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—
 - (a) any reductions made in consequence of any enactment in, or under, the 1992 Act (other than a reduction under this scheme); and
 - (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

<i>(1) Second adult</i>	<i>(2) Alternative maximum council tax benefit</i>
<p>(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;</p> <p>(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—</p> <p>(i) is less than £183.00 per week;</p> <p>(ii) is not less than £183.00 per week but less than £239.00 per week;</p> <p>(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 73(1) of Schedule 1 to the Default Scheme Regulations applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance</p>	<p>25 per cent of the council tax due in respect of that day;</p> <p>15 per cent of the council tax due in respect of that day;</p> <p>7.5 per cent of the council tax due in respect of that day;</p> <p>100 per cent of the council tax due in respect of that day.</p>

2. In determining a second adult's gross income for the purposes of this Schedule, there must be disregarded from that income —
 - (a) any attendance allowance, or any disability living allowance or any personal independence payment under part 4 of the Welfare Reform Act 2012 or an AFIP; and
 - (b) any payment to which paragraph 8(9)(b) or (10) of Schedule 1 to these Regulations refers (and sub-paragraph (13) of paragraph 8 applies to this paragraph as it applies in relation to that paragraph).

3. Where there are two or more second adults residing with the applicant and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income is to be disregarded in determining the amount of any alternative maximum council tax reduction, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

SCHEDULE 4
r14(2)

Sums disregarded from applicant's earnings

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—
 - (a) £25 in the case of a lone parent;
 - (b) £20 in any other case.
2. In a case where an applicant is a lone parent, £25 of earnings.
3. (1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.
 - (2) This paragraph applies to employment—
 - (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
 - (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
 - (c) as an auxiliary coastguard in respect of coast rescue activities;
 - (d) in the manning or launching of a lifeboat if the employment is part-time;
 - (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.
 - (3) If—
 - (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
 - (b) either of them has, or both of them have, other earnings,

so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.
4. (1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.
 - (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-

paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 9 of Part 3 of Schedule 2 (amount applicable for carers) is satisfied in respect of him.

5. (1) £20 is disregarded if the applicant or, if he has a partner, his partner—

(a) is in receipt of—

(i) long-term incapacity benefit under section 30A of the SSCBA;

(ii) severe disablement allowance under section 68 of that Act;

(iii) attendance allowance under sections 64 to 70 of that Act;

(iv) disability living allowance;

(v) personal Independence payment;

(vi) an AFIP;

(vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries Civilians) Scheme 1983;

(viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or

(viii) main phase employment and support allowance; or

(b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or

(c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been incapable, or has been treated as incapable, of work for a continuous period of not less than—

(i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;

(ii) in any other case, 364 days; or

(d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 2007 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—

- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act 2007 has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.
- (2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or was in receipt of a reduction under this scheme (including under another authority's scheme) and—
- (a) £20 was disregarded in respect of earnings taken into account in that award;
 - (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.
- (3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—
- (a) entitlement to housing benefit; or
 - (b) receipt of a reduction under the scheme; or
 - (c) employment,
- following the first day in respect of which that benefit is awarded or the reduction given under that scheme.
- (4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

6. (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 13 of Schedule 1 does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

- (2) Where this paragraph applies, paragraphs 1 to 5 and 7 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead

of this paragraph.

- (3) Notwithstanding paragraph 11 of Schedule 1 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).
- (4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.
- (5) This sub-paragraph applies to a person who is—
 - (a) in receipt of a contributory employment and support allowance;
 - (b) in receipt of incapacity benefit;
 - (c) in receipt of severe disablement allowance;
 - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (6) "Exempt work" means work of the kind described in—
 - (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

- (7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in subparagraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).
7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 5 to these Regulations had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—
 - (a) £5 must be disregarded if an applicant who has no partner has earnings;

(b) £10 must be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 17(9)(b) of Schedule 1, derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to a reduction under this scheme.

10. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule must be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

(a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant—

(i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or

(ii) If he is a member of a couple—

(aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and

(bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or

(iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or

(iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) any amount disregarded under this Schedule;

(b) The amount of child care charges calculated as deductible under paragraph 24(1)(c) (calculation of income on a weekly basis); and

(c) £17.10.

(4) The provisions of paragraph regulation 10 (remunerative work) are to apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in paragraph (1) of that

regulation was a reference to 30 hours.

11. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

SCHEDULE 5

r14(2)

Amounts to be disregarded in the calculation of income other than earnings

1. In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following, namely—
 - (a) a pension payable to a person as a widow, widower or surviving civil partner under 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;
 - (b) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (c) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (b) above;
 - (d) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
2. The whole of any amount included in a pension to which paragraph 1 relates in respect of—
 - (a) the applicant's need for constant attendance;
 - (b) the applicant's exceptionally severe disablement.
3. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
5. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
6. (1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) Whose service in such capacity terminated before 31st March 1973; and
 - (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006.
- (2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).
7. £15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.
8. £15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.
9. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100 per cent of such payments; or
 - (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50 per cent of the excess over £20.00.
10. If the applicant—
- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
 - (b) occupies a part of that property; and
 - (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
 - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
 - (ii) the amount paid is £20 or more per week, £20.
11. Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;
- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

- 12.** (1) Any payment, other than a payment to which sub-paragraph (2) applies made to the applicant by Trustees in exercise of a discretion exercisable by them.
- (2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—
- (a) obtaining food, ordinary clothing or footwear or household fuel;
 - (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
 - (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.
- (3) In a case to which sub-paragraph (2) applies, £20 or—
- (a) if the payment is less than £20, the whole payment;
 - (b) if, in the applicant's case, £10 is disregarded in accordance with paragraph

1(a) to (g), £10 or the whole payment if it is less than £10; or

(c) if, in the applicant's case, £15 is disregarded under paragraph 7 or paragraph 8 and—

(i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;

(ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

13. Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner's partner.

14. Any payment ordered by a court to be made to the applicant or the applicant's partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

15. Periodic payments made to the applicant or the applicant's partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant's partner for an injury suffered by him.

16. Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

17. Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

18. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

(a) under, or pursuant to regulations made under powers conferred by section 22 of the Teaching and Higher Education Act 1998, that student's award;

(b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or

(c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

- 19.** (1) Where the applicant is the parent of a student aged under 25 in advanced education who either—
- (a) is not in receipt of any award, grant or student loan in respect of that education; or
 - (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,
- and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.
- (2) For the purposes of sub-paragraph (1), the amount is to be equal to—
- (a) the weekly amount of the payments; or
 - (b) £56.80, whichever is less.
- (3) In this paragraph and paragraph 18 a reference to a “student loan” or a “grant” is a reference to a student loan or a grant within the meaning of Part 11 of the Schedule to the Default Scheme Regulations.
- 20.** (1) Where an applicant's applicable amount includes an amount by way of a family premium, £15 of any payment of maintenance, whether under a court order or not, which is made or due to be made by the applicant's spouse, civil partner, former spouse or former civil partner or the applicant's partner's spouse, civil partner, former spouse, or former civil partner.
- (2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.
- 21.** Except in a case which falls under paragraph 10 of Schedule 4, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.
- 22.** Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 6 does not exceed £10,000, any income actually derived from such capital.
- 23.** Except in the case of income from capital specified in Part 2 of Schedule 6 (capital disregards), any actual income from capital.
- 24.** Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No 3) Regulations 1999 as in force at that date, the whole of his income.

25. The whole of:

- (a) A war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
- (b) A war widow's pension or war widower's pension;
- (c) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;

SCHEDULE 6
r14(2)
CAPITAL DISREGARDS
PART 1

Capital to be disregarded

1. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.
3. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
4. Any premises occupied in whole or in part—
 - (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.
7. Any premises where the applicant is taking reasonable steps to dispose of the whole of his interest in those premises, for a period of 26 weeks from the date

on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

8. All personal possessions.
9. The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.
10. The assets of any business owned in whole or in part by the applicant if—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business,for a period of 26 weeks from the date on which the application for a reduction under this scheme is made or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.
11. The surrender value of any policy of life insurance.
12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—
 - (a) the applicant makes one or more payments to another person (“the provider”);
 - (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
 - (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.
13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—
 - (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner,by the Japanese during the Second World War, an amount equal to that payment.

14. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant's partner who is—
- (a) A diagnosed person;
 - (b) A diagnosed person's partner or was a diagnosed person's partner at the time of the diagnosed person's death; or
 - (c) A parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (2) Where a trust payment is made to—
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph is to apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date.
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—
- (a) the diagnosed person;
 - (b) a diagnosed person's partner or was a diagnosed person's partner at the date of the diagnosed person's death; or
 - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death.
- (4) Where a payment such as referred to in sub-paragraph (3) is made to—
- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ends on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph is to apply for the period beginning on the date on which the payment is made and ending two years after that date.
- (5) In this paragraph, a reference to a person—
- (a) being the diagnosed person's partner;
 - (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home or an independent hospital.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

15. The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or civil partner or the applicant's partner's deceased spouse or civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) Was a parent of a child who had died,

during the Second World War.

16. (1) Any payment made under or by—

(a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or

(b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner—

(a) from whom he is not, or where that person has died was not, estranged or divorced,

or

- (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.
- (4) Sub-paragraph (3) does not apply if—
 - (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
 - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—
 - (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—
 - (a) that person at the date of his death (“the relevant date”) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household;

and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or

- (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

but only for a period of two years from the relevant date.

- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

- 17.** (1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

- (2) Where the whole or part of the payment is administered—

- (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
- (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
- (c) In accordance with the terms of a trust established for the benefit of the applicant or his partner,

the whole of the amount so administered.

- 18.** Any amount specified in paragraph 19, 20, 21 or 25 of this Schedule for a period of one year beginning with the date of receipt.

- 19.** Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

- 20.** So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—

- (a) purchasing premises which the applicant intends to occupy as his home; or
- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

- 21.** (1) Subject to paragraph 22 any amount paid—

- (a) by way of arrears of benefit;
- (b) by way of compensation for the late payment of benefit;
- (c) in lieu of the payment of benefit;

- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
- (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000 under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001

(2) In sub-paragraph (1), “benefit” means—

- (a) attendance allowance under section 64 of the SSCBA;
- (b) disability living allowance;
- (c) personal independence payment
- (d) an AFIP;
- (e) income support;
- (f) income-based jobseeker's allowance;
- (g) state pension credit;
- (h) housing benefit;
- (i) council tax benefit;
- (j) child tax credit;
- (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (n) working tax credit; or
- (o) income-related employment and support allowance.

22. (1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the applicant in full on or after the day on which he became entitled to a reduction under this scheme.

(2) Subject to sub-paragraph (3), the total amount of any payments disregarded

under—

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations;
- (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
- (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
- (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

- (3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.
- (4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of a reduction under this scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received;
- and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of his death; “official error”—

“official error”

- (a) where the error relates to housing benefit or council tax benefit (in respect of any period before 1 April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and

Appeals) Regulations 1999;

“the relevant date” means the date on which an application for a reduction under the authority’s scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the payment referred to in sub-paragraph (1) or the total amount referred to in sub-paragraph (2).

- 23.** Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.
- 24.** The value of the right to receive income from an occupational pension scheme or a personal pension scheme.
- 25.** Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.
- 26.** The dwelling occupied as the home; but only one dwelling shall be disregarded under this paragraph.
- 27.** (1) Subject to sub-paragraph (2) where an applicant satisfies the conditions of class C (alternative maximum council tax reduction) the whole of his capital.
(2) Sub-paragraph (1) does not apply, where an applicant falls within class B (income greater than applicable amount) and class C.
- 28.** Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election and a payment has been made pursuant to that election, an amount equal to—
 - (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
 - (b) the amount of that lump sum,but only for so long as that person does not change that election in favour of an increase of pension or benefit.
- 29.** Any payments made by virtue of regulations made under—
 - (a) section 57 of the Health and Social Care Act 2001 (direct payments);
 - (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);

- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002(b) (direct payments).

PART 2

Capital disregarded only for the purposes of determining deemed income

- 30.** The value of the right to receive any income under a life interest or from a life rent.
- 31.** The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
- 32.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 33.** Where property is held under a trust, other than—
 - (a) a charitable trust within the meaning of the Charities Act 1993; or
 - (b) a trust set up with any payment to which paragraph 16 of this Schedule applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

SCHEDULE 7
Regulation 15(1)

PART 1

Procedure by which a person may apply for a reduction under this scheme

1. Paragraphs 2 to 8 apply to an application for a reduction under this scheme.
2. An application may be made—
 - (a) in writing,
 - (b) by means of an electronic communication in accordance with Part 4 of this Schedule, or
 - (c) where the authority has published a telephone number for the purpose of receiving such applications by telephone.
3. (1) An application which is made in writing must be made to the offices of the authority on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.
4. (1) Where an application made in writing is defective because—
 - (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
 - (b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

 - (2) An application made on a form provided by an authority is properly completed if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.
5. (1) If an application made by electronic communication is defective an authority must provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

6. In a particular case the authority may determine that an application made by telephone is only valid if the person making the application approves a written statement of his circumstances provided by the authority.
7. (1) If an application made by telephone is defective the authority must provide the person making the application with an opportunity to correct the defect.
- (2) An application made by telephone is defective if the applicant does not provide all the information the authority requests during the telephone call.
- 7A. Transition - a claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement on 31 March 2013.

PART 2

Procedure for making an appeal

Procedure by which a person may make an appeal against certain decisions of the authority

8. (1) A person who is aggrieved by a decision of an authority which affects—
- (a) the person's entitlement to a reduction under its scheme, or
- (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on that authority stating the matter by which, and the grounds on which, he is aggrieved.
- (2) The authority must—
- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing—
- (i) that the ground is not well founded, giving reasons for that belief; or
- (ii) that steps have been taken to deal with the grievance, stating the steps taken.
- (3) Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

PART 3

Procedure for applying for a discretionary reduction

Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act

9. (1) An application to an authority for a reduction under section 13A(1)(c)(a) of the 1992 Act may be made—
- (a) in writing,
 - (b) by means of an electronic communication in accordance with Part 4 of this Schedule,
- or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.
- (2) Where—
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
 - (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

PART 4

Electronic communication

Interpretation

- 10 In this Part –

“information” includes an application, a certificate, notice or other evidence and

“official- computer system” means a computer system maintained by or on behalf of the authority for sending, receiving, processing or storing of any information.

Conditions for the use of electronic communication

11. (1) An authority may use an electronic communication in connection with an application for, and awards of, reductions under its scheme.
- (2) A person other than that authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions

specified in sub-paragraphs (3) to (6) are satisfied.

- (3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.
- (4) The second condition is that the person uses an approved method of—
 - (a) authenticating the identity of the sender of the communication;
 - (b) electronic communication;
 - (c) authenticating any application or notice delivered by means of an electronic communication; and
 - (d) subject to sub-paragraph (7), submitting to the authority any information.
- (5) The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes of this Part.
- (6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.
- (7) Where the person uses any method other than the method approved of submitting any information that information is to be treated as not having been submitted.
- (8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part.

Use of intermediaries

- 12.** The authority may use intermediaries in connection with—
- (a) the delivery of any information by means of an electronic communication; and
 - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

Effect of delivering information by means of electronic communication

- 13.** (1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority’s scheme, on the day the conditions imposed—
- (a) by this Part; and

(b) by or under an enactment,

are satisfied.

- (2) An authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in subparagraph (1).
- (3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

Proof of identity of sender or recipient of information

14. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such information delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

Proof of delivery of information

15. (1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where—

- (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
- (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the authority has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

Proof of content of information

- 16.** If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.

SCHEDULE 8
Regulation 15(1)

Procedure for an Application for a reduction under this scheme

PART 1

Extended reductions: persons who are not pensioners

1. Paragraph 2 applies only in relation to persons who are not pensioners.

Extended reductions: movers into an authority's area

2. Where—
- (a) an application is made to an authority (“the current authority”) for a reduction under its scheme, and
 - (b) the applicant or the partner of the applicant, is in receipt of an extended reduction from—
 - (i) another billing authority in England; or
 - (ii) a billing authority in Wales,

the current authority must reduce any reduction to which the applicant is entitled under its scheme by the amount of that extended reduction.

PART 2

Further provision about applications and duty to notify a change of circumstances

3. Except for paragraph 6 (which applies to persons who are pensioners only), paragraphs 4 to 9 apply to persons who are pensioners and persons who are not pensioners.

Making an application

4. (1) In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- (2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—
- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
 - (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland)

Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or

- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise, that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.
- (3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, an authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- (4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).
- (5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—
- (a) it may at any time revoke the appointment;
 - (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
 - (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).
- (6) Anything required by an authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.
- (7) The authority must—
- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
 - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
 - (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

Date on which an application is made

5. (1) Subject to sub-paragraph (7), the date on which an application is made is—
- (a) in a case where—
 - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
 - (ii) the application for a reduction is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office, the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;
 - (b) in a case where—
 - (i) an applicant or his partner is a person in receipt of a guarantee credit,
 - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling he occupies as his home, and
 - (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;
 - (c) in a case where—
 - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
 - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received, the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
 - (d) in a case where—
 - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
 - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
 - (iii) the application is received at the designated office within one month of the date of the change, the date on which the change takes place;
 - (e) In a case where—

- (i) an applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under this scheme, and
 - (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation, the date of the death or separation;
- (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as an authority considers reasonable) of the date on which an application form was issued to an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (g) in any other case, the date on which an application is received at the designated office.
- (2) For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
 - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days), have been entitled to that allowance.
- (3) Where the defect referred to in paragraph 7 of Schedule 7 (applications by telephone)—
- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance;
 - (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority must treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide the application.
- (4) An authority must treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—

- (a) where paragraph 4(a) of Schedule 7 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
 - (b) where paragraph 4(b) of Schedule 7 (application not on approved form or further information requested by authority) applies—
 - (i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
 - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request, or, in either case, within such longer period as the authority may consider reasonable; or
 - (c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to an authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.
- (7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than—
- (a) in the case of an application made by—
 - (i) a pensioner, or
 - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit,

the seventeenth reduction week following the date on which the application is made, or
 - (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the

reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

- (8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims of income support, a job seekers allowance or an employment and support allowance.

Back-dating of applications

6. (1) This paragraph applies only to persons who are pensioners.
- (2) Subject to sub-paragraph (3), the time for the making of an application under this scheme is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such a reduction, that day and the period of three months immediately following it.
- (3) In any case where paragraph 5(1)(a) (date on which application made: state pension credit comprising guarantee credit) applies, sub-paragraph (2) does not entitle a person to apply for a reduction under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

Information and evidence

7. (1) Subject to sub-paragraph (3), a person who makes an application for a reduction under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.
- (2) This sub-paragraph is satisfied in relation to a person if—
- (a) the application is accompanied by—
- (i) a statement of the person’s national insurance number and information or evidence establishing that that number has been allocated to the person; or
- (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
- (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by—
- (i) evidence of the application for a national insurance number to be so allocated; and
- (ii) the information or evidence enabling it to be so allocated.
- (3) Sub-paragraph (2) does not apply—

- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
 - (b) to a person who—
 - (i) is a person treated as not being in Great Britain for the purposes of these Regulations;
 - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
 - (iii) has not previously been allocated a national insurance number.
- (4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.
- (5) Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.
- (6) Where an authority makes a request under sub-paragraph (4), it must—
- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
 - (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which must be notified.
- (7) This sub-paragraph applies to any of the following payments—
- (a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
 - (b) a payment which is disregarded under paragraph 16 of Schedule 6 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
 - (c) a payment which is disregarded under paragraph 8(10) of Schedule 1.
- (8) Where an applicant or a person to whom a reduction under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a

personal pension scheme, he must where the authority so requires furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

8. (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- (2) Where the application was made by telephone in accordance with Part 1 of Schedule 7, the amendment may also be made by telephone.
- (3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.
- (4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.
- (5) Where the application was made by telephone in accordance with Part 1 of Schedule 7, the withdrawal may also be made by telephone.
- (6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- (7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

Duty to notify changes of circumstances

9. (1) Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—
- (a) between the making of an application and a decision being made on it, or
 - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under this scheme) including at any time while the applicant is in receipt of such a reduction.
- (2) The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority—
- (a) in writing; or

- (b) by telephone—
 - (i) where the authority has published a telephone number for that purpose or for the purposes of Part 1 of Schedule 7 unless the authority determines that in any particular case or class of case notification may not be given by telephone; or
 - (ii) in any case or class of case where the authority determines that notice may be given by telephone; or
- (c) by any other means which the authority agrees to accept in any particular case,

within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

- (3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—
 - (a) changes in the amount of council tax payable to the authority;
 - (b) changes in the age of the applicant or that of any member of his family;
 - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- (4) For the purposes of sub-paragraph (3)(c) "relevant benefit" means income support, an income-based jobseeker's allowance or an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- (6) The duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within class C (pensioners: alternative maximum council tax reduction), giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs.
- (7) A person who has been awarded a reduction under this scheme who is also on state pension credit must report—
 - (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;

- (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only a savings credit must also report—
- (a) changes affecting a child living with him which may result in a change in the amount of reduction under the authority's scheme allowed in his case, but not changes in the age of the child;
 - (b) any change in the amount of the applicant's capital to be taken into account which does or may take the amount of his capital to more than £16,000;
 - (c) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 12 of Schedule 1 (circumstances in which income of a non-dependant is to be treated as applicant's); or
 - (ii) a person to whom paragraph 14(2)(e) of Schedule 1 refers (partner treated as member of the household under regulation 8), and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (9) A person who is entitled to a reduction under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

PART 3

Decisions by an authority

- 10.** This Part applies to persons who are pensioners and persons who are not pensioners.

Decision by authority

- 11.** An authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and Part 1 of Schedule 7 being satisfied, or as soon as reasonably practicable thereafter.

Notification of decision

- 12.** (1) An authority must notify in writing any person affected by a decision made by it under its scheme—
- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;

- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- (2) Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement—
 - (a) informing the person affected of the duty imposed by paragraph 9(1);
 - (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
 - (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.
- (3) Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.
- (4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the procedure for making an appeal.
- (5) A person affected to whom an authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- (6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- (7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of an authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- (8) This sub-paragraph applies to—
 - (a) the applicant;
 - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
 - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
 - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or
 - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the

Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

- (c) a person appointed by an authority under paragraph 4(3) (persons appointed to act for a person unable to act).

Part 4

Decisions by an authority

Circumstances in which a payment may be made

- 13.** This part applies to persons who are pensioners and persons who are not pensioners.

Payment where there is joint and several liability

- 14.** (1) Where—
 - (a) a person is entitled to a reduction under this scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
 - (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
 - (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers would be inappropriate, it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.
- (2) Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.
- (3) Where a person other than a person who is entitled to a reduction under this scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

Section 2

(Schedule 1A 2(1) Local Government Finance Act 1992)

Interpretation

In addition to the statutory interpretation set out in Section 1 regulation 2 which is adopted for the purposes of this scheme, in this Section of the scheme

“applicable amount” means— the amount calculated in accordance with paragraphs 14, 15 and 16 of Schedule 9 and Schedule 10;

“assessment period” such period as is set out in paragraphs 21 to 23 of this section of the scheme over which income falls to be calculated;

“reduction week” means 7 consecutive days commencing on a Monday and ending on a Sunday.

“child care costs element” has the meaning given by regulation issued by the Secretary of State under the Welfare reform act 2012;

“council tax benefit” means council tax benefit under Part 7 of the SSCBA;

“earnings” has the meaning given by paragraph 25 of this section of the scheme

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000;

“employment zone” means an area with Great Britain designated for the purposes of 60 of the Welfare Reform Act 1997 and Pensions Act 1999 and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“extended reduction” means a reduction under this scheme for which a person is eligible pursuant to paragraph 60 of this section of the scheme;

“extended reduction (qualifying contributory benefits)” means a reduction under this section of the scheme for which a person is eligible pursuant to paragraph 65 of this section of the scheme;

“extended reduction period” means the period for which a person is in receipt of an extended reduction in accordance with paragraph 61 or 66 of this section of the scheme;

“housing costs element” has the meaning given by regulations issued by the Secretary of State under the Welfare Reform Act 2012;

“mobility supplement” means a supplement to which paragraph 13 of Schedule 12 refers;

“net earnings” means such earnings as are calculated in accordance with paragraph 26 of this section of the scheme, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 35 of this section of the scheme;

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

- (a) an employment zone programme;
- (b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973 (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc; or
- (c) the Employment, Skills and Enterprise Scheme;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

Schedule 9

PART 1

Classes of persons entitled to a reduction under this scheme

1. The classes of persons who are not pensioners described in paragraphs 3 to 10 are entitled to a reduction under this section of the scheme.
2. In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

Class D: Persons who are entitled to a Disability Premium and whose income is less than the applicable amount

3. On any day class D consists of person who is entitled, or who's partner is entitled to a disability premium (schedule 10 paragraphs 9 and 10) and whose income is less than their applicable amount —
 - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
 - (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
 - (f) whose capital on that day does not exceed £16,000, and
 - (g) who has made an application for a reduction under this scheme.

Class E: Persons who are entitled to a Disability Premium and whose income is greater than the applicable amount

4. On any day class E consists of a person who is entitled, or who's partner is entitled to a disability premium (schedule 10 paragraphs 9 and 10) and whose income is greater than the applicable amount
 - (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;

- (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax reduction amount can be calculated;
- (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
- (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
- (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax reduction in his case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
- (g) whose capital on that day does not exceed £16,000, and
- (h) who has made an application for a reduction under this scheme.

Class F: Persons who are in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme and whose income is less than the applicable amount

5. On any day class F consists of any person who is in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme included in the calculation—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
 - (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
 - (f) whose capital on that day does not exceed £16,000, and
 - (g) who has made an application for a reduction under this scheme.

Class G: Persons who are in receipt of a War Disablement Pension, a War Widows Pension, a War Widowers Pension, a guaranteed income payment or a survivors guaranteed income payment under the Armed Forces and Reserve Forces Compensation Scheme included in the calculation and whose income is greater than the applicable amount

6. On a day class G consists of any person who has either the Severe Disability Premium or Enhanced Disability Premium (Schedule 10 paragraph 11 and 12) included in the calculation—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
 - (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
 - (f) in respect of whom amount A exceeds amount B where—
 - (i) Amount A is the maximum council tax reduction in his case; and
 - (ii) Amount B is $2 \frac{6}{7}$ per cent of the difference between his income for the relevant week and his applicable amount;
 - (g) whose capital on that day does not exceed £16,000, and
 - (h) who has made an application for a reduction under this scheme.

Class H : persons who are not pensioners whose income is less than the applicable amount

7. On any day class H consists of any person who is not a pensioner and doesn't also fall into Classes D to G
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person not entitled to a reduction under

this scheme (Paragraph 11 of Part 2);

- (e) whose income (if any) for the relevant week is less than his applicable amount calculated in accordance with part 3 of this Schedule;
- (f) whose capital on that day does not exceed £16,000, and
- (g) who has made an application for a reduction under this scheme.

Class I: persons who are not pensioners whose income is greater than the applicable amount

8. On any day class I consists of any person who is not a pensioner and doesn't also fall into classes D to G—
- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
 - (b) who, subject to paragraph 10, is not absent from the dwelling throughout the day;
 - (c) in respect of whom a maximum council tax reduction amount can be calculated;
 - (d) who does not fall within a class of person not entitled to a reduction under this scheme (Paragraph 11 of Part 2);
 - (e) whose income for the relevant week is greater than his applicable amount calculated in accordance with part 3 of this Schedule;
 - (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax reduction in his case; and
 - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount;
 - (g) whose capital on that day does not exceed £16,000, and
 - (h) who has made an application for a reduction under this scheme.

Alternative maximum council tax reduction – persons who are not pensioners

9. Persons that are not pensioners are not entitled to any reduction under the scheme set out for pensioners in Section 1 Part 5. Consequently this scheme does not include a class for those persons.

Periods of absence from a dwelling

10. (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.

- (2) In sub-paragraph (1), a “period of temporary absence” means—
- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
 - (i) the person resides in that accommodation;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,

where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
 - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period is unlikely to exceed 13 weeks; and
 - (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
 - (iii) the person is a person to whom sub-paragraph (3) applies; and
 - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (3) This sub-paragraph applies to a person who —
- (a) detained in custody on remand pending trial or required, as a condition of bail, to reside—
 - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
 - (ii) in premises approved under section 13 of the Offender Management Act 2007

- or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
 - (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
 - (d) is following, in the United Kingdom or elsewhere, a training course;
 - (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
 - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
 - (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
 - (h) is a student;
 - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
 - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995); and
 - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
 - (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
 - (c) if he does not fall within paragraph (a), he is not to be considered to be a

person who is liable to pay council tax in respect of a dwelling of which he is a resident.

(6) In this paragraph—

“medically approved” means certified by a medical practitioner;

“patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

“residential accommodation” means accommodation which is provided in—

(a) a care home;

(b) an independent hospital;

(c) an Abbeyfield Home; or

(d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

PART 2

Classes of person excluded from this scheme

Classes of person excluded from this scheme

11. (1) In addition to those classes set out in Section 1 (Part 2 regulations 12, 12A, 12B and 13 of the Council Tax Reduction Schemes (Prescribed Requirements) Regulations, the class of person set out in sub-paragraph 2 are also excluded from this scheme.
- (2) The class of person described in this paragraph consists of any student to whom paragraph 49(1) applies.
- (3) In this paragraph “student” has the meaning given by paragraph 45(1) of this scheme.

PART 3

Applicable amounts for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Applicable amounts

12. (1) Subject to paragraphs 13 and 14, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 10;
 - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of Schedule 10;
 - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of Schedule 10 (family premium);
 - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
 - (e) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component, which may be applicable to him in accordance with Part 5 of that Schedule (the components);
 - (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

- (2) In Schedule 10—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations ;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

Polygamous marriages

- 13.** Where an applicant who is not a pensioner is a member of a polygamous marriage, his applicable amount for a week is the aggregate of such of the following amounts as may apply in his case—
- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 10 as if he and that partner were a couple;
 - (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
 - (c) an amount determined in accordance with paragraph 3 of that Schedule (applicable amounts) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
 - (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
 - (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
 - (f) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component,which may be applicable to him in accordance with Part 5 of that Schedule (the components);
 - (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

Applicable amount: persons who are not pensioners who have an award of universal credit

- 14.** (1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner —
- (a) who has, or
 - (b) who (jointly with his partner) has,
- an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

- (2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—
 - (a) one of them is a party to an earlier marriage that still subsists; and
 - (b) the other party to that earlier marriage is living in the same household.
- (3) The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.
- (4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012.

PART 4

Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

Maximum council tax reduction under this scheme

15. (1) Subject to sub-paragraphs (2) to (4), the amount of a person’s maximum council tax reduction in respect of a day is 80 per cent of the amount A/B for classes H and I; and 100 per cent of the amount of A/B for classes D,E,F and G where—
 - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
 - (b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under paragraph 18 (non-dependant deductions).
- (2) In calculating a person’s maximum council tax reduction under this scheme any reduction in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than a reduction under this scheme), is to be taken into account.
- (3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax reduction in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.
- (4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.
- (5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly

and severally liable for council tax does not include a student to whom paragraph 47(2) applies.

- (6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

Non-dependant deductions

16. (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 15 are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, £10.95 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.65 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

- (a) less than £186.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);
- (b) not less than £186.00 but less than £322.00, the deduction to be made under this paragraph is £7.25;
- (c) not less than £322.00 but less than £401.00, the deduction to be made under this paragraph is £9.15.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of this sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and

- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons; the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
- (a) blind or treated as blind by virtue of sub-paragraphs (12) or (13) below; or
 - (b) receiving in respect of himself either—
 - (i) attendance allowance, or would be receiving that allowance but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (ii) the care component of the disability living allowance, or would be receiving that component, but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients).
- (7) No deduction is to be made in respect of a non-dependant if—
- (a) although he resides with the applicant, it appears to the relevant authority that his normal home is elsewhere; or
 - (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) he is a full time student within the meaning of article 4 of, and schedule 1 to, the Council Tax (Discounts Disregards) Order 1992; or
 - (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
 - (i) "Patient" has the meaning given in paragraph 10(6) of this scheme, and
 - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal

in duration to the total of those distinct periods.

- (8) No deduction is to be made in respect of a non-dependant—
- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
 - (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount); but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant's weekly gross income—
- (a) any attendance allowance, disability living allowance or personal independence payment received by him;
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which are paid as income in kind; and
 - (c) the payments set out in sub-paragraph (10).
- (10) The payments mentioned in sub-paragraph (9) are—
- (a) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
 - (b) any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—
 - (i) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
 - (c) any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have

formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which paragraph (a) refers and which is made to or for the benefit of—

- (i) the person who is suffering from haemophilia or who is a qualifying person;
 - (ii) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (iii) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family;
- (d) any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
- (i) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian, but only for a period from the date of the payment until the end of two years from that person's death;
- (e) any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which paragraph (a) refers, where—
- (i) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
 - (ii) the payment is made either—
 - (aa) to that person's parent or step-parent, or
 - (bb) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or stepparent, to his guardian, but only for a period of two years from the relevant date;

- (f) in the case of a person to whom or for whose benefit a payment referred to in this subparagraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (11) An applicant, or as the case may be, his partner is blind or treated as blind for the purposes of sub-paragraph (6)(a) if the applicant or his partner is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.
- (12) For the purposes of sub-paragraph (11), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind for a period of 28 weeks following the date on which he ceased to be so registered.
- (13) The reference in sub-paragraph (9)(b) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

PART 5

Confirmation of Amount of Council Tax included in the calculation for classes H and I.

Amount of Council Tax included in the calculation

17. This is to restate for the avoidance of any doubt that for classes H and I the amount of Council Tax to be included in the calculation of reduction is 80% of the Council Tax for that day after having already deducted any discount awarded for that day.

PART 6

Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction

CHAPTER 1

General

Calculation of income and capital: applicant’s family and polygamous marriages

18. (1) The income and capital of—
- (a) an applicant; and
 - (b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part.

- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.
- (3) Where an applicant or the partner of an applicant is married polygamously to two or more members of his household—
 - (a) the applicant must be treated as possessing capital and income belonging to each such member; and
 - (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

Circumstances in which capital and income of non-dependant is to be treated as applicant's

19. (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more capital and income than the applicant.

(2) Except where—

- (a) the applicant is a pensioner and is on a guarantee credit, or
- (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority will treat the applicant as possessing capital and income belonging to that non-dependant and, in such a case, any capital and income which the applicant does possess is to be disregarded.

(3) Where an applicant is treated as possessing capital and income belonging to a non-dependant under sub-paragraph (2) the capital and income of that non-dependant will be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

CHAPTER 2

Income and capital where there is an award of universal credit

Calculation of income and capital: persons who have an award of universal credit

20. (1) In determining the income of an applicant—

- (a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—

(a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);

(b) paragraph 19 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;

(c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).

(4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.

(5) Paragraph 19 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

(6) In determining the capital of an applicant—

(a) who has, or

(b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

CHAPTER 3

Income

Average weekly earnings of employed earners

21. (1) where the income of an applicant who is not a pensioner consists of earnings

from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

- (a) over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of—
 - (i) 5 weeks, if he is paid weekly; or
 - (ii) 2 months, if he is paid monthly; or
 - (b) whether or not paragraph (a)(i) or (ii) applies, where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.
- (2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—
- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
 - (b) in any other case, the authority must estimate the applicant's average weekly earnings.
- (3) Where the amount of an applicant's earnings changes during an award the authority must estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period will not in any case exceed 52 weeks.
- (4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 27 and 28.

Average weekly earnings of self-employed earners:

22. (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.
- (2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 27, 35 and 36 of this part.

Average weekly income other than earnings:

23. (1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any

such income other than that specified in Schedule 12.

- (2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 30 of this part.

Calculation of weekly income

- 24.** (1) For the purposes of paragraphs 21 (average weekly earnings of employed earners), 23 (average weekly income other than earnings) and 33 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—
- (a) does not exceed a week, the weekly amount is to be the amount of that payment;
 - (b) exceeds a week; the weekly amount is to be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.
- (2) For the purposes of paragraph 22 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

Earnings of employed earners:

- 25.** (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person who is not a pensioner, any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
 - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
 - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
 - (e) any payment by way of a retainer;

- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
 - (g) any award of compensation made under section 112(4) or 117(3) (a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
 - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
 - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
 - (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
 - (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
 - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

Calculation of net earnings of employed earners:

26. (1) For the purposes of paragraph 21 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.
- (2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 19 of Schedule 11.
- (3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
- (a) any amount deducted from those earnings by way of—
 - (i) income tax;
 - (ii) primary Class 1 National Insurance contributions under the SSCBA;
 - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
 - (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
 - (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.
- (4) In this paragraph “qualifying contribution” means any sum which is payable periodically as a contribution towards a personal pension scheme.
- (5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—
- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
 - (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.
- (6) Where the earnings of an applicant are estimated under paragraph 21(2)(b) (average weekly earnings of employed earners), his net earnings is to be calculated by taking into account those earnings over the assessment period,

less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Earnings of self-employed earners

- 27.** (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.
- (2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 12 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.
- (3) This paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
 - (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.
- (4) Where the applicant’s earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—
- (a) the amount of reduction under this scheme to which the applicant would

have been entitled had the payment not been made, plus

- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 11 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

Calculation of income other than earnings:

28. (1) For the purposes of paragraph 25 (average weekly income other than earnings), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 29 (capital treated as income).
- (2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 12.
- (3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.
- (4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- (5) Where an award of any working tax credit or child tax credit under the Tax Credits Act is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (6) In sub-paragraph (5), "tax year" means a period beginning with 6th April in one year and ending with 5th April in the next.
- (7) Sub-paragraphs (8) and (9) apply where—
- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- (8) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (8) applies, is to be calculated by applying the formula—

$$(A - (B \times C)) / D$$

Where—

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 55(5);

B = the number of reduction weeks from the reduction week immediately following that which includes the first day of that academic year to the reduction week which includes the day on which the person abandoned, or was dismissed from, his course;

C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 55(2) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to a reduction under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

D = the number of reduction weeks in the assessment period.

- (9) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 55(5).

- (10) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 7;

“assessment period” means—

(a) in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;

(b) in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes—

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments

continued; or

- (ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

- (a) 1st January and ending on 31st March;
- (b) 1st April and ending on 30th June;
- (c) 1st July and ending on 31st August; or
- (d) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 48(7) or both.

- (11) For the avoidance of doubt there must be included as income to be taken into account under paragraph (1)—

- (a) any payment to which paragraph 25(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

Capital treated as income

- 29. (1) Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital otherwise calculated in accordance with Chapter 3 of this Part exceeds £16,000, be treated as income.
- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments,

any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

Notional income:

30. (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of the reduction.
- (2) Except in the case of—
- (a) a discretionary trust;
 - (b) a trust derived from a payment made in consequence of a personal injury;
 - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
 - (d) any sum to which paragraph 50(2)(a) of Schedule 13 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a);
 - (e) any sum to which paragraph 51(a) of Schedule 13 refers;
 - (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
 - (g) child tax credit;
 - (h) working tax credit, or
 - (i) any sum to which sub-paragraph (11) applies, any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- (3) Any payment of income, other than a payment of income specified in sub-paragraph (4),

Made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that

single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;

- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (4) Sub-paragraph (3) does not apply in respect of a payment of income made—
- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
 - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
 - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
 - (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
 - (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
 - (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
 - (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect

of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;

- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.
- (6) Subject to sub-paragraph (7), where—
- (a) an applicant performs a service for another person; and
 - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area, the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (7) Sub-paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
 - (b) in a case where the service is performed in connection with—
 - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
 - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or
 - (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State)

before the placement starts.

- (8) In sub-paragraph (7)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 26(3) (calculation of net earnings of employed earners) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—
 - (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this subparagraph is to be calculated on a pro rata basis;
 - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
 - (c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.
- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant’s participation in a service user group.

Calculation of income on a weekly basis

- 31.** (1) Subject to paragraph 34 (disregard of changes in tax, etc), the income of an applicant is to be calculated on a weekly basis—
 - (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
 - (b) by adding to that amount the weekly income calculated under paragraph 44; and
 - (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 32 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a

case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

- (2) The conditions of this paragraph are that—
 - (a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in paragraph (3) otherwise applies in his case; and
 - (b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.
- (3) The maximum deduction to which paragraph (1)(c) above refers is to be—
 - (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
 - (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.
- (4) For the purposes of paragraph (1) "income" includes capital treated as income under paragraph 39 (capital treated as income) and income which the applicant is treated as possessing under paragraph 30 (notional income).

Treatment of child care charges

- 32.** (1) This paragraph applies where an applicant (within the meaning of this paragraph) is incurring relevant child care charges and—
- (a) is a lone parent and is engaged in remunerative work;
 - (b) is a member of a couple both of whom are engaged in remunerative work;
or
 - (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;
 - (ii) is an in-patient in hospital; or
 - (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).
- (2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—
- (a) is paid statutory sick pay;

- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
 - (c) is paid an employment and support allowance;
 - (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987; or
 - (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
 - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- (4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- (5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and is to be calculated on a weekly basis in accordance with subparagraph (10).
- (6) The charges are paid by the applicant for care which is provided—
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
 - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- (7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—
- (a) in respect of the child's compulsory education;
 - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with Section 1 paragraph 7 (circumstances in which a person is treated as

responsible or not responsible for another); or

- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- (8) The care to which sub-paragraph (7) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local authority—
 - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
 - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
 - (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
 - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
- (ci) by persons registered under Part 10A of the Children act 1989; or
- (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
 - (e) by—
 - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
 - (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act; or
 - (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
 - (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
 - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
 - (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part

3 of that Act does not apply by virtue of section 53(2) of that Act; or

- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
 - (k) by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
 - (l) by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002; or
 - (m) by a person who is not a relative of the child wholly or mainly in the child’s home.
- (9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.
- (10) Relevant child care charges must be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.
- (11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—
- (a) the applicant is not a pensioner; the applicant’s applicable amount includes a disability premium on account of the other member’s incapacity or the support component or the work-related activity component on account of his having limited capability for work;
 - (b) the applicant is not a pensioner, the applicant’s applicable amount would include a disability premium on account of the other member’s incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (c) the applicant’s applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
 - (d) the applicant is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and

for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;

- (e) the applicant has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (f) There is payable in respect of him one or more of the following pensions or allowances—
 - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance under section 71 of the SSCBA;
 - (v) personal independence payment under Part 4 of the Welfare Reform Act 2012;
 - (vi) increase of disablement pension under section 104 of the SSCBA;
 - (vii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), or (v) above;
 - (viii) main phase employment and support allowance;
- (g) a pension or allowance to which sub-paragraph (ii), (iv), (v), (vi) or (vii) of paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
- (h) paragraph (f) or (g) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (i) he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the

Health and Personal Social Services (Northern Ireland) Order 1972.

- (12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- (13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(e) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- (14) For the purposes of paragraphs (6) and (8)(a), a person is disabled if he is a person—
- (a) in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
 - (b) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
 - (c) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
- (15) For the purposes of sub-paragraph (1) a woman on maternity leave, paternity leave or adoption leave is to be treated as if she is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—
- (a) in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
 - (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
 - (c) she is entitled to either statutory maternity pay under section 164 of the SSCBA, statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.
- (16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and

ends on—

- (a) the date that leave ends;
- (b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support (if relevant), statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
- (c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends, whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

- (a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations; and
- (b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element).

(18) In this paragraph “applicant” does not include an applicant –

- (a) who has, or
 - (b) who (jointly with his partner) has,
- an award of universal credit.

Calculation of average weekly income from tax credits

- 33.** (1) This paragraph applies where an applicant receives a tax credit.
- (2) Where this paragraph applies, the period over which a tax credit is to be taken into account must be the period set out in sub-paragraph (3).
 - (3) Where the instalment in respect of which payment of a tax credit is made is—
 - (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
 - (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
 - (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
 - (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

- (4) For the purposes of this paragraph “tax credit” means child tax credit or working tax credit.

Disregard of changes in tax, contributions etc

34. In calculating the applicant’s income the authority may disregard any legislative change—

- (a) in the basic or other rates of income tax;
- (b) in the amount of any personal tax relief;
- (c) in the rates of social security contributions payable under the SSCBA or in the lower earnings limit or upper earnings limit for Class 1 contributions under that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions);
- (d) in the amount of tax payable as a result of an increase in the weekly rate of Category A, B, C or D retirement pension or any addition thereto or any graduated pension payable under the SSCBA;

(a) in the maximum rate of child tax credit or working tax credit,

for a period not exceeding 30 reduction weeks beginning with the benefit week immediately following the date from which the change is effective.

Calculation of net profit of self-employed earners

35. (1) For the purposes of paragraph 22 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners’ Benefits) Regulations 1975, his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of social security contributions payable under the Act calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with paragraph (11) in respect of any qualifying premium.

(2) There shall be disregarded from a claimant’s net profit, any sum, where

applicable, specified in paragraphs 1 to 16 of Schedule 11.

- (3) For the purposes of sub-paragraph (1)(a) the net profit of the employment shall, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—
 - (a) subject to sub paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
 - (b) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the Act, calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
 - (c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.
- (4) For the purposes of sub-paragraph (1)(b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs (5) to (7), any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- (5) Subject to paragraph (6), no deduction shall be made under sub-paragraph (3)(a) or (4), in respect of—
 - (a) any capital expenditure;
 - (b) the depreciation of any capital asset;
 - (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
 - (d) any loss incurred before the beginning of the assessment period;
 - (e) the repayment of capital on any loan taken out for the purposes of the employment;
 - (f) any expenses incurred in providing business entertainment; and
 - (g) any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.
- (6) A deduction shall be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—
 - (a) the replacement in the course of business of equipment or machinery; and
 - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

- (7) The authority shall refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (8) For the avoidance of doubt—
- (a) a deduction shall not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
 - (b) a deduction shall be made thereunder in respect of—
 - (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (9) Where a claimant is engaged in employment as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
 - (i) income tax; and
 - (ii) social security contributions payable under the SSCBA,
calculated in accordance with paragraph 36 (deduction of tax and contributions for self-employed earners); and
 - (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.
- (10) For the avoidance of doubt where a claimant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.
- (11) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this sub-paragraph the daily amount of the qualifying premium shall be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;

(b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this sub-paragraph, “qualifying premium” means any premium which is payable periodically in respect of a retirement annuity contract or a personal pension scheme and is so payable on or after the date of claim.

Calculation of deduction of tax and contributions of self-employed earners

36. (1) The amount to be deducted in respect of income tax under paragraph 35(1)(b)(i), (3)(b)(i) or (9) (a)(i) (calculation of net profit of self-employed earners) must be calculated—

(a) on the basis of the amount of chargeable income, and

(b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

(3) The amount to be deducted in respect of social security contributions under paragraph 35 (1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant’s chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and

(b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.

(4) In this paragraph “chargeable income” means—

(a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 35;

- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER 4

Capital

Calculation of capital

37. (1) The capital of an applicant to be taken into account must be, subject to subparagraph (2), the whole of his capital calculated in accordance with this Part and any income treated as capital under paragraph 38 (income treated as capital).
- (2) There must be disregarded from the calculation of an applicant's capital under subparagraph (1), any capital, where applicable, specified in Schedule 13.
- (3) The capital of a child or young person who is a member of the family of an applicant must not be treated as capital of the applicant.

Income treated as capital

38. (1) Any bounty derived from employment to which paragraph 9 of Schedule 11 applies and paid at intervals of at least one year is to be treated as capital.
- (2) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.
- (3) Any holiday pay which is not earnings under paragraph 25(1)(d) (earnings of employed earners) is to be treated as capital.
- (4) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 13, any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (5) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.
- (6) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.
- (7) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- (8) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

- (9) Any arrears of working tax credit or child tax credit must be treated as capital.

Calculation of capital in the United Kingdom

- 39.** Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—
- (a) where there would be expenses attributable to the sale, 10 per cent; and
 - (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

- 40.** Capital which an applicant possesses in a country outside the United Kingdom will be calculated—
- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
 - (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer, less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

Notional capital

- 41.** (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to a reduction under this scheme or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 42 (diminishing notional capital rule).
- (2) Except in the case of—
- (a) a discretionary trust; or
 - (b) a trust derived from a payment made in consequence of a personal injury; or
 - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 13; or
 - (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
 - (e) any sum to which paragraph 50(2)(a) of Schedule 13 (capital to be disregarded) applies which is administered in the way referred to in paragraph 50(1)(a); or
 - (f) any sum to which paragraph 51(a) of Schedule 13 refers; or
 - (g) child tax credit; or

(h) working tax credit,

any capital which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(3) Any payment of capital, other than a payment of capital specified in sub-paragraph (4), made—

(a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;

(b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;

(c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Sub-paragraph (3) does not apply in respect of a payment of capital made—

(a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;

(b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—

(i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;

(ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

(iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;

(iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or

- (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
 - (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
 - (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
 - (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
 - (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such a case—
- (a) the value of his holding in that company must, notwithstanding paragraph 37 (calculation of capital) be disregarded; and
 - (b) he must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.
- (6) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.
- (7) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule

42. (1) Where an applicant is treated as possessing capital under paragraph 41(1) (notional capital), the amount which he is treated as possessing—

(a) in the case of a week that is subsequent to—

(i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or

(ii) a week which follows that relevant week and which satisfies those conditions,

shall be reduced by an amount determined under sub-paragraph (3);

(b) in the case of a week in respect of which paragraph (1)(a) does not apply but where—

(i) that week is a week subsequent to the relevant week; and

(ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied,

shall be reduced by the amount determined under sub-paragraph (4).

(2) This paragraph applies to a benefit week or part-week where the claimant satisfies the conditions that—

(a) he is in receipt of a reduction under the authorities scheme; and

(b) but for paragraph 41(1), he would have received an additional amount of reduction in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the reduction for the purposes of sub-paragraph (1)(a) shall be equal to the aggregate of—

(a) the additional amount to which sub-paragraph (2)(b) refers;

(b) where the claimant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the benefit week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations (notional capital);

(c) where the claimant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the benefit week to which paragraph (2) refers but for the application of regulation 51(1) of the Income Support Regulations(a)(notional capital);

(d) where the claimant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the benefit week to which sub-

paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations (notional capital) and

- (e) where the claimant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of benefit week to which paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations (notional capital).
- (4) Subject to sub-paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to a reduction under the authorities scheme in the relevant week but for paragraph 41(1), and in such a case the amount of the reduction in notional capital shall be equal to the aggregate of—
- (a) the amount of council tax reduction to which the claimant would have been entitled in the relevant week but for paragraph 41(1); and for the purposes of this sub-paragraph if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of council tax benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
 - (b) if the claimant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
 - (c) if the claimant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
 - (d) if the claimant would, but for regulation 113 of the Jobseeker's Allowance Regulations, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of

those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7 and

- (e) if the claimant would, but for regulation 115 of the Employment and Support Allowance Regulations, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number equal to the number of days in that part-week and multiplying the quotient so obtained by 7.
- (5) The amount determined under sub-paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for council tax reduction under the authority's scheme and the conditions in paragraph (6) are satisfied, and in such a case—
- (a) sub-paragraphs (a) to (d) of paragraph (4) shall apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
 - (b) subject to sub-paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.
- (6) The conditions are that—
- (a) a further claim is made 26 or more weeks after—
 - (i) the date on which the claimant made a claim for council tax reduction under the authority's scheme in respect of which he was first treated as possessing the capital in question under paragraph 41(1);
 - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (5), the date on which he last made a claim for council tax reduction under the authority's scheme which resulted in the weekly amount being re-determined, or
 - (iii) the date on which he last ceased to be entitled to council tax reduction under the authority's scheme, whichever last occurred; and
 - (b) the claimant would have been entitled to council tax reduction under the authority's scheme but for paragraph 41(1).
- (7) The amount as re-determined pursuant to sub-paragraph (5) shall not have

effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this paragraph—

(a) "part-week"—

(i) in sub-paragraph (4)(a) means a period of less than a week for which council tax reduction under the authority's scheme is allowed;

(ii) in sub-paragraph (4)(b) means a period of less than a week for which housing benefit is payable;

(iii) in sub-paragraph (4)(c), (d) and (e) means—

(aa) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and

(bb) any other period of less than a week for which it is payable;

(b) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of paragraph 41(1)—

(i) was first taken into account for the purpose of determining his entitlement to council tax reduction under the authority's scheme; or

(ii) was taken into account on a subsequent occasion for the purpose of determining or redetermining his entitlement to council tax reduction under the authority's scheme on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, council tax reduction under the authority's scheme;

and where more than one benefit week is identified by reference to heads (i) and (ii) of this subparagraph the later or latest such benefit week or, as the case may be, the later or latest such part week;

(c) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

Capital jointly held

43. Except where an applicant possesses capital which is disregarded under paragraph 41(5) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for

the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

Calculation of tariff income from capital

44. (1) Where the capital of an applicant calculated in accordance with this Part exceeds £10,000, it must be treated as equivalent to a weekly income of £1 for each complete £500 in excess of £10,000 but not exceeding £16,000.
- (2) Notwithstanding sub-paragraph (1) where any part of the excess is not a complete £500 that part must be treated as equivalent to a weekly tariff income of £1.
- (3) For the purposes of sub-paragraph (1), capital includes any income treated as capital under paragraph 38 (income treated as capital).

PART 7

Students

CHAPTER 1

General

Interpretation

45. (1) In this Part—

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds

provided by the Young People’s Learning Agency for England under sections 61 and 62 of the Apprenticeships, Skills, Children and Learning Act 2009 or the Chief Executive of Skills Funding under sections 100 and 101 of that Act; or

(e) financial Contingency Funds made available by the Welsh Ministers;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

“contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder’s expenses—
 - (i) the holder of the allowance or bursary;
 - (ii) the holder’s parents;
 - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder’s spouse or civil partner;

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent;

“education authority” means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Young People’s Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the

Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;

- (b) is funded in whole or in part by the Young People's Learning Agency for England, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (i) in the case of a course funded by the Young People's Learning Agency for England or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those bodies for the delivery of that course; or
 - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
 - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 55 of Schedule 13 applies;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;
- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
 - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker’s Allowance Regulations ;

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

“standard maintenance grant” means—

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (“the 2003 Regulations”) for such a student;

- (b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;
- (c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as "standard maintenance allowance" for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;
- (d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

"student" means a person, other than a person in receipt of a training allowance, who is attending or undertaking—

- (a) a course of study at an educational establishment; or
- (b) a qualifying course;

"student loan" means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 2007.

- (2) For the purposes of the definition of "full-time student" in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—
 - (a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—
 - (i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or
 - (ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;
 - (b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.
- (3) For the purposes of sub-paragraph (a) of sub-paragraph (2), the period referred to in that sub-paragraph includes—

- (a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;
 - (b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.
- (4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

Treatment of students

46. This scheme has effect in relation to students subject to paragraph 11 (Classes of person excluded from this scheme) and the following provisions of this Part.

Students who are excluded from entitlement to a council tax reduction under this scheme

- 47.** (1) Subject to sub-paragraphs (2) and (6), for the purposes of paragraph 11 (Classes of person excluded from this scheme), this paragraph applies to full-time students and students who are persons treated as not being in Great Britain.
- (2) Sub-paragraph (1) does not apply to a student—
- (a) who is a person on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance;
 - (b) who is a lone parent;
 - (c) whose applicable amount would, but for this regulation, include the disability premium or severe disability premium;
 - (d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
 - (f) who has, or is treated as having, limited capability for work and has had,

or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;

- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
 - (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
 - (i) who is—
 - (i) aged under 21 and whose course of study is not a course of higher education, or
 - (ii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
 - (j) in respect of whom—
 - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
 - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
 - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
 - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
 - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986, on account of his disability by reason of deafness.
- (3) For the purposes of sub-paragraph (2)(i)(i) the student must have begun, or been enrolled or accepted onto, the course before attaining the age of 19.

- (4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.
- (5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.
- (6) A full-time student to whom paragraph (i) of sub-paragraph (2) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.
- (7) Sub-paragraph (1) does not apply to a full-time student for the period specified in sub-paragraph (8) if—
 - (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
 - (i) engaged in caring for another person; or
 - (ii) ill;
 - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
 - (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).
- (8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—
 - (a) the day on which he resumes attending or undertaking the course; or
 - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course, whichever shall first occur.

CHAPTER 2

Income

Calculation of grant income

48. (1) The amount of a student's grant income to be taken into account must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.
- (2) There must be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees;
 - (b) in respect of the student's disability;
 - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
 - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
 - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
 - (f) intended to meet the cost of books and equipment;
 - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
 - (h) intended for the child care costs of a child dependant;
 - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—
- (a) the sum of £303 per academic year in respect of travel costs; and
 - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- (4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—

- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
 - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 52(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.
- (9) The figures stated in sub-paragraph 3 in respect of travel costs, books and equipment will be uprated at the same time and to the same rate as is used in the Housing Benefit scheme. The current rate used for housing benefit will apply if it is different to what is stated in sub-paragraph 3.

Calculation of covenant income where a contribution is assessed

49. (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.
- (2) The weekly amount of the student's covenant must be determined—

- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
 - (b) by disregarding £5 from the resulting amount.
- (3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 48(2)(g) (calculation of grant income) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

- 50.** (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
- (a) any sums intended for any expenditure specified in paragraph 48(2)(a) to (e) (calculation of grant income) necessary as a result of his attendance on the course must be disregarded;
 - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
 - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 48(2)(f) and (3) (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
 - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.
- (2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with sub-paragraphs (a) to (d) of sub-paragraph (1), except that—
- (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 48(2)(a) to (e); and
 - (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 48(2)(f) and (g) and (3).

Relationship with amounts to be disregarded under Schedule 12

- 51.** No part of a student's covenant income or grant income shall be disregarded under paragraph 19 of Schedule 12.

Other amounts to be disregarded

52. (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 55 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 48(2) (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded.
- (2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 48(2) or (3), 49(3), 50(1)(a) or (c) or 53(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

Treatment of student loans

53. (1) A student loan is to be treated as income.
- (2) In calculating the weekly amount of the loan to be taken into account as income—
- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
- (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course,
- and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period—
- (i) beginning with the reduction week, the first day of which coincides with or immediately follows, the first day of that academic year, and
- (ii) ending with the reduction week, the last day of which coincides with or immediately precedes, the last day of that academic year, but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this paragraph, "quarter" shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;
- (c) in respect of the final academic year of a course (not being a course of a

single year's duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

- (i) except in a case where sub-paragraph (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year;
 - (ii) where the final academic year starts on 1st September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term, and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- (d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—
- (i) the first day of the first reduction week in September; or
 - (ii) the reduction week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of June, and, in all cases, from the weekly amount so apportioned there shall be disregarded £10.

(3) A student is to be treated as possessing a student loan in respect of an academic year where—

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—
 - (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
 - (ii) any contribution whether or not it has been paid to him;
- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—
 - (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and

- (ii) no deduction in that loan was made by virtue of the application of a means test.
- (5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—
- (a) the sum of £303 per academic year in respect of travel costs; and
 - (b) the sum of £390 per academic year towards the cost of books and equipment,
- whether or not any such costs are incurred.
- (6) The figures stated in sub-paragraph 5 in respect of travel costs, books and equipment will be updated at the same time and to the same rate as is used in the Housing Benefit scheme. The current rate used for housing benefit will apply if it is different to what is stated in sub-paragraph 3.

54 Treatment of fee loans

A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations under Article 3 of the Education (Student Support)(Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 72(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

Treatment of payments from access funds

- 55.** (1) this paragraph applies to payments from access funds that are not payments to which paragraph 58(2) or (3) (income treated as capital) applies.
- (2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.
- (3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 12—
- (a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and
 - (b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable,
- must be disregarded as income to the extent of £20 per week.
- (4) Where a payment from access funds is made—
- (a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and

that payment is intended for the purpose of bridging the period until receipt of the student loan; or

- (b) before the first day of the course to a person in anticipation of that person becoming a student,

that payment must be disregarded as income.

Disregard of contribution

56. Where the applicant or his partner is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution must be disregarded for the purposes of assessing that other partner's income.

Further disregard of student's income

57. Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing that student's income.

Income treated as capital

58. (1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.
- (2) An amount paid from access funds as a single lump sum must be treated as capital.
- (3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

Disregard of changes occurring during summer vacation

59. In calculating a student's income the authority must disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

PART 8

Extended reductions

Extended reductions

60. (1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction

where—

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
 - (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and
 - (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.
- (2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.
- (3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they shall be treated as being entitled to and in receipt of jobseeker's allowance.
- (4) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
 - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
 - (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).
- (5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

Duration of extended reduction period

- 61.** (1) Where an applicant is entitled to an extended reduction, the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
 - (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

Amount of extended reduction

- 62.** (1) For any week during the extended reduction period the amount of the extended reduction to which an applicant is entitled is to be the higher of—
- (a) the amount of the reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
 - (b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 60 (extended reductions) did not apply to the applicant; or
 - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 60 did not apply to the applicant.
- (2) Sub-paragraph (1) does not apply in the case of a mover.
- (3) Where an applicant is in receipt of an extended reduction under this paragraph and the applicant's partner makes a claim for a reduction under this scheme, no amount of reduction under this scheme is to be awarded by the authority during the extended reduction period.

Extended reductions—movers

- 63.** (1) This paragraph applies—
- (a) to a mover; and
 - (b) from the Monday following the day of the move.

- (2) The amount of the extended reduction awarded from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme to which the mover was eligible for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to a billing authority other than this one, the extended reduction (qualifying contributory benefits) may take the form of a payment from this authority to—
 - (a) the second authority; or
 - (b) the mover directly.
- (4) Where—
 - (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
 - (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority,

the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended payment period.

Relationship between extended reduction and entitlement to reduction under the general conditions of entitlement

64. (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in paragraph 60(1)(b), that entitlement does not cease until the end of the extended reduction period.
- (2) Paragraphs 71 and Paragraph 4 of Schedule 8 do not apply to any extended reduction payable in accordance with paragraph 60(1)(a) or 63(2).

Extended reductions (qualifying contributory benefits)

65. (1) An applicant who is entitled to a reduction under this scheme (by virtue of the general conditions of entitlement) shall be entitled to an extended reduction (qualifying contributory benefits) where—
 - (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
 - (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—

- (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment, and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last reduction week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.
- (2) An applicant must be treated as entitled to a reduction under this scheme by virtue of the general conditions of entitlement where—
- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
 - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
 - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits)

- 66.** (1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended reduction period ends—
- (a) at the end of a period of four weeks; or
 - (b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits)

- 67.** (1) For any week during the extended reduction period the amount of the extended reduction (qualifying contributory benefits) payable to an applicant is to be the greater of—
- (a) the amount of reduction under this scheme to which the applicant was entitled under the general conditions of entitlement in the last reduction week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
 - (b) the amount of reduction under this scheme to which the applicant would be entitled under the general conditions of entitlement for any reduction week during the extended reduction period, if paragraph 65 (extended reductions qualifying contributory benefits) did not apply to the applicant; or
 - (c) the amount of reduction under this scheme to which the applicant's partner would be entitled under the general conditions of entitlement, if paragraph 65 did not apply to the applicant.

Extended reductions (qualifying contributory benefits) -movers

- 68.** (1) This paragraph applies—
- (a) to a mover; and
 - (b) from the Monday following the day of the move.
- (2) The amount of the extended reduction (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended reduction period is to be the amount of reduction under this scheme which was awarded to the mover for the last reduction week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.
- (3) Where a mover's liability to pay council tax in respect of the new dwelling is to another authority, the extended reduction (qualifying contributory benefits) may take the form of a reduction from this authority to—
- (a) that other authority; or
 - (b) the mover directly.
- (4) Where—
- (a) a mover, or the mover's partner, makes a claim for council tax reduction to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
 - (b) the mover, or the mover's partner, is in receipt of an extended reduction from the appropriate authority,

the second authority shall reduce the weekly amount of council tax reduction that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended reduction until the end of the extended payment period.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction under the general conditions of entitlement

- 69.** (1) Where an applicant's reduction under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 65(1)(b), that reduction does not cease until the end of the extended reduction period.
- (2) Paragraph 72 of this Schedule and Paragraph 4 of Schedule 8 do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 62(1)(a) or 63(2) (amount of extended reduction—movers).

Extended reductions: movers into the authority's area

70. Where—

- (a) an application is made to a billing authority ("the current authority") for a reduction under this scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended reduction from—
- (i) another billing authority in England;
 - (ii) a billing authority in Wales;
 - (iii) a local authority in Scotland, or
 - (iv) a local authority in Northern Ireland,

the current billing authority must reduce any reduction to which the applicant is entitled under this scheme by the amount of that extended reduction.

PART 9

Period of entitlement and change of circumstances

Date on which entitlement begins

- 71.** (1) Subject to sub-paragraph (2), any person to whom or in respect of whom an application for a reduction under this scheme is made and who is otherwise entitled to that reduction shall be so entitled from the reduction week following the date on which that application is made or is treated as made under

paragraph 76 or 77.

- (2) Where a person is otherwise entitled to a reduction under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the reduction week in which his application is made or is treated as made, he shall be so entitled from that reduction week.

Date on which a change of circumstances is to take effect

- 72.** (1) Except in cases where paragraph 34 (disregard of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph and also subject to section 3 (effective date for late notification of a change in circumstances), a change of circumstances which affects entitlement to, or the amount of, a reduction under this scheme ("change of circumstances"), takes effect from the first day of the reduction week following the date on which the change actually occurs.
- (2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
 - (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
 - (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 11A (discounts) of that Act, it takes effect from the day on which the change in amount has effect.
 - (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
 - (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
 - (7) If two or more changes of circumstances occurring in the same reduction week would, but for this paragraph, take effect in different reduction weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (2) to (6) above refers, or, where more than one day is concerned, from the earlier day.
 - (8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authorities scheme.
 - (9) Without prejudice to sub-paragraph (8), where the change of circumstances is

the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of the authority's scheme.

(10) Sub-paragraph (11) applies if—

(a) the applicant or the applicant's partner has attained the age of 65; and

(b) either—

(i) a non-dependant took up residence in the applicant's dwelling; or

(ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 8 (non dependent deductions) increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

(a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—

(i) the date on which the applicant's entitlement to a reduction under the authority's scheme first began;

or

(ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;

(b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a reduction week, the effective date in that case is the first day of the next reduction week to commence after the date determined under that sub-paragraph.

Duty to notify changes of circumstances

73. The duty to notify a change of circumstances is as set out in Paragraph 9 of Schedule 8.

PART 10

Applications

Procedure by which a person may apply for a reduction under the authority's scheme

74. The procedure by which a person may apply for a reduction under the authority's scheme is as set out in paragraphs 2 to 8 of schedule 7.

Who may make an application

75. Who may make an application is as set out in Paragraph 6 of Schedule 8.

Date on which an application is made

76. (1) Subject to sub-paragraph (7), the date on which an application is made is—

(a) in a case where—

- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
- (ii) the application for a reduction under this scheme is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received at the appropriate DWP office,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(b) in a case where—

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the authority's offices within one month of the date of the change,

the date on which the change takes place;

(c) In a case where—

- (i) the applicant is the former partner of a person who was, at the date of

his death or their separation, entitled to a reduction under this scheme, and

- (ii) where the applicant makes an application for a reduction under this scheme within one month of the date of the death or the separation,

the date of the death or separation;

- (d) except where paragraph (a), (b) or (f) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (e) A claim for Council Tax Benefit in respect of which there is an award of entitlement at the end of the day of 31 March 2013, or in respect of which no decision has been made, will be treated as a claim for Council Tax Reduction from 1 April 2013. This may apply to claims for Council Tax Benefit which by 31 March 2013 have been refused as having no entitlement but are subsequently revised so there is entitlement at 31 March 2013.
- (f) In any other case, the date on which the application is received at the offices of the authority.

- (2) For the purposes only of sub-paragraph (1)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
- (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),

have been entitled to that allowance.

- (3) Where the defect referred to in paragraph 8 of Schedule 7 to this scheme—

- (a) is corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance;
- (b) is not corrected within one month (or such longer period as the authority considers reasonable) of the date the authority last drew attention to it, the authority is to treat the application as if it had been duly made in the first instance where it considers it has sufficient information to decide on the

application.

- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in subparagraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—
 - (a) where paragraph 4(a) of Schedule 7 (incomplete form) applies, the authority receives at the offices of the authority the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
 - (b) where paragraph 4(b) of Schedule 7 (application not on approved form or further information requested by authority) applies—
 - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be,
 - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,or, in either case, within such longer period as the authority may consider reasonable; or
 - (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.
- (6) Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under this scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority is to treat the application as having been made on the day on which the liability for the tax arises.
- (7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under this scheme in the reduction week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under this scheme for a period beginning not later than the thirteenth reduction week following the date on which the application is made, the authority may treat the application as made on a date in the reduction week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.
- (8) In the case of a person who has attained, or whose partner has attained the age

which is 17 weeks younger than the qualifying age for state pension credit, sub paragraph 7 shall apply as if for the reference to the thirteenth reduction week, there was substituted a reference to the seventeenth reduction week.

Back-dating of applications

77. (1) Where an applicant—

- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of—

- (a) the first day from which the applicant had continuous good cause;
- (b) the day 3 months before the date the claim was made;
- (c) the day 3 months before the date when the applicant requested that the application should include a past period.

Evidence and information

78. Evidence and information is as set out in Paragraph 7 of Schedule 8

Amendment and withdrawal of application

79. Amendment and withdrawal of application is as set out in Paragraph 8 of Schedule 8.

PART 11

Electronic Communication

Electronic Communication

80. The provisions for use of electronic communication are as set out in paragraphs 10,11, 12, 13, 14, 15 and 16 of schedule 7

PART 12

Decisions by the authority

Decisions by authority

81. Decisions by authority is as set out in Paragraph 11 of Schedule 8.

Notification of decision

82. Notification of Decision is as set out in Paragraph 12 of Schedule 8

Procedure by which a person may make an appeal against certain decisions of the authority

83. The procedure for making an appeal is set out in paragraph 9 of schedule 7.

PART 13

Award or payment of reduction

Time and manner of granting reduction under a scheme

84. The time and manner of granting a reduction under this scheme is set out in Paragraph 14 of Schedule 8.

Person to whom reduction is to be paid

85. The person to whom a reduction is to be paid is as set out in paragraph 15 of Schedule 8.

Shortfall in reduction

86. The method for dealing with a shortfall in reduction is as set out in paragraph 16 of schedule 8.

Payment on death to the person entitled

87. The provision for making payment following the death of the person entitled is as set out in paragraph 17 of schedule 8.

PART 14

Procedure for applying for a discretionary reduction

Procedure for applying for a discretionary reduction under section 13A(1)(c) of the 1992 Act

88. The procedure is as set out in paragraph 9 of schedule 7

SCHEDULE 10
Paragraph 12 & 13

Applicable amounts: persons who are not pensioners
PART 1
Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) shall be the amounts specified for the purposes of paragraphs 12(1)(a) and 13(1)(a) and (b)—
2. For the purposes of paragraph 1 of this Schedule an applicant is entitled to main phase employment and support allowance if—
 - (a) paragraph 18 of this Schedule is satisfied in relation to the applicant; or
 - (b) the applicant is entitled to a converted employment and support allowance.

<i>Column (1) Person or couple</i>	<i>Column (2) Amount</i>
(1) A single applicant who— (a) is entitled to main phase employment and support allowance; (b) is aged not less than 25; (c) is aged not less than 18 but less than 25.	£71.70; £71.70; £56.80.
(2) Lone parent.	£71.70.
(3) Couple.	£112.55.

3. (1) The amounts specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of paragraphs 12(1)(b) and 13(1)(c) of this scheme—
- (2) In column (1) of the table in sub-paragraph (1), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

<i>Column (1) Child or Young person</i>	<i>Column (2) Amount</i>
Person in respect of the period—	
(a) beginning on that person’s date of birth and ending on the day preceding the first Monday in September following that person’s sixteenth birthday;	£65.62
(b) beginning on the first Monday in September following that person’s sixteenth birthday and ending on the day preceding that person’s twentieth birthday.	£65.62

PART 2

Family premium

4. (1) The amount for the purposes of paragraphs 12(1)(c) and 13(1)(d) in respect of a family of which at least one member is a child or young person shall be—
- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20;
 - (b) in any other case, £17.40.
- (2) The amount in sub-paragraph (1)(a) shall be applicable to a lone parent—
- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit Regulations 2006 as in force on that date; or
 - (b) on becoming entitled to council tax benefit where that lone parent—
 - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and
 - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006,and in respect of whom, all of the conditions specified in sub-paragraph (4) have continued to apply.
- (3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—
- (a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to council tax benefit;
 - (b) the applicant has not ceased to be a lone parent;
 - (c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;
 - (d) where the applicant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and

- (e) a premium under paragraph 9 of this Schedule or a component under paragraph 21 or 22 of this Schedule has not become applicable to the applicant.
- (4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant shall be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—
- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
 - (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable under paragraph 3(1)(a) of Schedule 3 to those Regulations.

PART 3

Premiums

5. Except as provided in paragraph 6 of this Schedule, the premiums specified in Part 4 of this Schedule shall, for the purposes of paragraphs 12(1)(d) and 13(1)(e) of this scheme, be applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 of this Schedule in respect of that premium.
6. Subject to paragraph 7 of this Schedule, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium shall be applicable to him and, if they are different amounts, the higher or highest amount shall apply.
7. The following premiums, namely—
- (a) a severe disability premium to which paragraph 11 of this Schedule applies;
 - (b) an enhanced disability premium to which paragraph 12 of this Schedule applies;
 - (c) a disabled child premium to which paragraph 13 of this Schedule applies; and
 - (d) a carer premium to which paragraph 14 of this Schedule applies,
- may be applicable in addition to any other premium which may apply under this Schedule.
8. (1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person shall be treated as being in receipt of any benefit for—
- (a) in the case of a benefit to which the Social Security (Overlapping Benefits)

- Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.
- (2) For the purposes of the carer premium under paragraph 14 of this Schedule, a person shall be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

Disability premium

9. The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 of this Schedule is satisfied; or
- (b) where the applicant has a partner, either—
 - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 (1)(a) or (b) is satisfied by him; or
 - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

Additional condition for the disability premium

10. (1) Subject to sub-paragraph (2) and paragraph 8 of this Schedule, the additional condition referred to in paragraph 9 of this Schedule is that either—

- (a) The applicant or, as the case may be, his partner—
 - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe

disablement allowance, only where it is paid in respect of him; or

- (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant has since remained continuously entitled to council tax benefit or council tax reduction and, if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
 - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 32(11)(g) (treatment of child care charges); or
 - (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 32(11)(g) (treatment of child care charges); or
 - (v) is provided by the Secretary of State with an invalid carriage or other vehicle under section 5(2) of the National Health Service Act 1977 (other services) or, in Scotland, under section 46 of the National Health Service (Scotland) Act 1978 (provision of services by Scottish Ministers) or receives payments by way of grant from the Secretary of State under paragraph 2 of Schedule 2 to the Act of 1977 (additional provisions as to vehicles) or, in Scotland, by Scottish Ministers under section 46 of the Act of 1978; or
 - (vi) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (b) the applicant—
- (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
 - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (aa) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the SSCBA, 196 days;
 - (bb) in any other case, 364 days.

- (2) For the purposes of sub-paragraph (1)(a)(vi), a person who has ceased to be registered as blind on regaining his eyesight shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.
- (3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he shall, on again becoming so incapable of work, immediately thereafter be treated as satisfying the condition in sub-paragraph (1)(b).
- (4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.
- (5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods shall be treated as one continuous period.
- (6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.
- (7) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990.
- (8) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—
 - (a) the reference to a period of 8 weeks in sub-paragraph (3); and
 - (b) the reference to a period of 56 days in sub-paragraph (5),shall in each case be treated as a reference to a period of 104 weeks.
- (9) The applicant is not entitled to the disability premium if he has, or is treated as

having, limited capability for work.

Severe disability premium

11. (1) The condition is that the applicant is a severely disabled person.
- (2) For the purposes of sub-paragraph (1), an applicant shall be treated as being a severely disabled person if, and only if—
- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
- (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
- (iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;
- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
- (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
- (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,
- and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.
- (3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(vi) and (2), that partner shall be treated for the

purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

- (4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—
 - (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA; or
 - (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(vi) and (2).
- (5) For the purposes of sub-paragraph (2)(b) a person shall be treated—
 - (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
 - (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.
- (6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account shall be taken of an award of carer's allowance to the extent that payment of such an award is backdated for a period before the date on which the award is first paid.
- (7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance shall include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

Enhanced disability premium

12. (1) Subject to sub-paragraph (2), the condition is that—
 - (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
 - (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—
 - (i) the applicant; or
 - (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—

- (i) the applicant; or
- (ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

- (2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).
- (3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—
 - (a) an applicant who—
 - (i) is not a member of a couple or a polygamous marriage; and
 - (ii) is a patient within the meaning of this scheme and has been for a period of more than 52 weeks; or
 - (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of this scheme and has been for a period of more than 52 weeks.

Disabled child premium

- 13. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—
 - (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
 - (b) is blind or treated as blind within the meaning of paragraph 10 of this Schedule; or
 - (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

- 14.** (1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.
- (2) Where a carer premium is awarded but—
- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
 - (b) in any other case the person in respect of whom a carer premium has been awarded ceases to be entitled to a carer's allowance,
- the condition for that award of the premium shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).
- (3) The relevant date for the purposes of sub-paragraph (2) shall be—
- (a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;
 - (b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.
- (4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for a reduction, the condition for the award of the carer premium shall be treated as satisfied for a period of eight weeks from the date on which—
- (a) the person in respect of whose care the carer's allowance has been awarded dies;
 - (b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

Persons in receipt of concessionary payments

- 15.** For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall be treated as if it were a payment of that benefit.

Persons in receipt of benefit for another

- 16.** For the purposes of this Part of this Schedule, a person shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

PART 4

Amounts of Premiums Specified in Part 3

<i>Premium</i>	<i>Amount</i>
17.—	
(1) Disability Premium—	
(a) where the applicant satisfies the condition in paragraph 9(a);	£31.00
(b) Where the applicant satisfies the condition in paragraph 9(b).	£44.20
(2) Severe Disability Premium—	
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	£59.50;
(b) where the applicant satisfies the condition in paragraph 11(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5);	£59.50;
(ii) In a case where there is no-one in receipt of such an allowance.	£119.00.
(3) Disabled Child Premium	£57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 13 of Part 3 of this Schedule is satisfied.
(4) Carer Premium.	£33.30 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	£23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;
	£15.15 in respect of each person who is neither—
	(i) a child or young person; nor
	(ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied;
	£21.75 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.

PART 5

The components

- 18.** Subject to paragraph 20 of this Schedule the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 of this Schedule if—
- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
 - (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
 - (c) either—
 - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.
- 19.** Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.
- 20.** (1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10 of this Schedule.
- (2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

The work-related activity component

- 21.** The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

The support component

- 22.** The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

PART 6

Amount of Components

- 23.** The amount of the work-related activity component is £28.45.
- 24.** The amount of the support component is £34.80.

PART 7
Transitional Addition

- 25.** (1) The applicant is entitled to the transitional addition calculated in accordance with paragraph 28 where the applicant or the applicant's partner ("the relevant person")—
- (a) is entitled to a converted employment and support allowance; or
 - (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No 2) Regulations 2008 and—
 - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Existing Awards) Regulations 2008; and
 - (ii) is not in receipt of an income-related employment and support allowance,unless the amount of the transitional addition calculated in accordance with paragraph 28 of this Schedule would be nil.
- (2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
 - (b) the termination of the applicant's award of reduction under this scheme;
 - (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
 - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
 - (e) 5th April 2020.
- 26.** (1) This paragraph applies where—
- (a) the applicant's entitlement to a transitional addition, ends by virtue of the termination of the applicant's award of reduction, under—
 - (i) paragraph 25(2)(b) of this Schedule;
 - (ii) sub-paragraph (3)(b) of this paragraph; or

- (iii) paragraph 27(3)(b) of this Schedule;
 - (b) Within 104 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to a reduction under this scheme;
 - (c) in the reduction week in which the applicant again becomes entitled to a reduction under this scheme the relevant person is entitled to an employment and support allowance which is not income-related;
 - (d) if the period between the events mentioned in paragraphs (a) and (b) is more than 12 weeks, the intervening period is one to which regulation 145(2) (linking period where applicant is a work or training beneficiary) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
 - (e) at the date on which the applicant again becomes entitled to a reduction under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
 - (b) the termination of the applicant's award of a reduction under this scheme;
 - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
 - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
 - (e) 5th April 2020.

27. (1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
 - (i) paragraph 25(2)(c) of this Schedule;

- (ii) paragraph 26(3)(c) of this Schedule; or
 - (iii) sub-paragraph (3)(c) of this paragraph;
 - (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
 - (c) either—
 - (i) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations applies to the relevant person; or
 - (ii) the period between the events mentioned in paragraphs (a) and (b) is one to which regulation 145(2) of the Employment and Support Allowance Regulations applies in respect of the relevant person; and
 - (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.
- (2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of a reduction under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29 of this Schedule), unless the amount of the transitional addition would be nil.
- (3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—
- (a) the reduction of the transitional addition to nil in accordance with paragraph 29 of this Schedule;
 - (b) the termination of the applicant's award of a reduction under this scheme;
 - (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
 - (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
 - (e) 5th April 2020.

PART 8
Amount of Transitional Addition

- 28.** (1) Subject to paragraph 29 of this Schedule, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.
- (2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Existing Awards) Regulations is made in respect of the relevant person—
- (a) amount A is the basic amount that would have applied on the day that decision took effect had that decision not been made; and
- (b) amount B is the basic amount that applied on that day as a result of that decision.
- (3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Existing Awards) Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations as modified by the Employment and Support Allowance (Existing Awards) Regulations—
- (a) amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) amount B is the basic amount that applied on that day as a result of the relevant person being so treated.
- (4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant’s case in accordance with paragraph 14(1)(a) to (e) or paragraph 15(1)(a) to (f) of this scheme.
- 29.** (1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant’s basic amount, the transitional addition that applies immediately before the change of circumstances shall be reduced by the amount by which Amount C exceeds Amount D.
- (2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition shall be reduced to nil.
- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

SCHEDULE 11

Paragraph 26(2) & 35(2)

Sums disregarded in the calculation of earnings

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

- (i) the employment has been terminated because of retirement; and
- (ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to a reduction under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

(aa) paragraph 27(1)(e) of this scheme, or

(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

(aa) paragraph 25(1)(g) or (i), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to a reduction under this scheme—

(i) the employment has not been terminated, but

(ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 25(1)(j) or (k) of this scheme.

2. In the case of an applicant who, before the first day of entitlement to a reduction under this scheme—
 - (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and
 - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated, any earnings paid or due to be paid in respect of that employment except—
 - (i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule;
 - (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) of this Schedule or paragraph 25(1)(j) or (k).
3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 27(3) and (4) of this Scheme (earnings of self-employed earners) apply.
4. (1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.
 - (2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 10 (applicable amounts).
 - (3) This paragraph applies where—
 - (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 10; and
 - (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.
6. (1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 10 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.
- (2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £20 of the aggregated amount.
7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—
- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.
8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it shall not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.
9. (1) In a case where paragraphs 4, 5, 6, and 7 do not apply to the applicant, £20 of earnings derived from one or more employments as—
- (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;

- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage); if this paragraph applies to an applicant it shall not apply to his partner except to the extent specified in subparagraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11. In a case to which none of the paragraphs 4 to 10 applies, £5.

12. (1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 20 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it shall not apply to the other member of that couple ("B") except to the extent provided in sub-

paragraph (4).

- (4) Where A's earnings are less than the specified amount, there shall also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.
- (5) This sub-paragraph applies to a person who is—
 - (a) in receipt of a contributory employment and support allowance;
 - (b) in receipt of incapacity benefit;
 - (c) in receipt of severe disablement allowance; or
 - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (6) "Exempt work" means work of the kind described in—
 - (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations; or (as the case may be)
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

- (7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in subparagraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).
- 13.** Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 12 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.
 - 14.** Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, his earnings.
 - 15.** Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

16. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.
17. Any earnings of a child or young person.
18. (1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 of this Schedule shall be increased by £17.10.
- (2) The conditions of this sub-paragraph are that—
- (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit Regulations applies; or
- (b) the applicant—
- (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
- (ii) is a member of a couple and—
- (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
- (bb) his applicable amount includes a family premium under paragraph 4 of Schedule 10; or
- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
- (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—
- (aa) the applicant's applicable amount includes a disability premium under paragraph 10, the work-related activity component under paragraph 23 or the support component under paragraph 24 of Schedule 10 respectively;
- (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit Regulations (eligibility for 50 plus element) applies, or would apply if an application for working tax credit

were to be made in his case.

- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12 of this Schedule;
 - (b) the amount of child care charges calculated as deductible under paragraph 33(1)(c) of this scheme; and
 - (c) £17.10.
- (4) The provisions of paragraph 10 of section 1 of this scheme shall apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

19. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

SCHEDULE 12

Paragraph 28

Sums disregarded in the calculation of income other than earnings

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.
4. Any amount paid by way of tax on income which is to be taken into account under paragraph 28 (calculation of income other than earnings).
5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—
 - (a) engaged by a charitable or voluntary organisation, or
 - (b) a volunteer,if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 30(5) (notional income).
6. Any payment in respect of expenses arising out of the applicant's participation in a service user group.
7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.
9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.
10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No 3) Regulations 1999 as in force at that date, the whole of his income.

11. Any disability living allowance or personal independence payment.
12. Any concessionary payment made to compensate for the non-payment of—
 - (a) any payment specified in paragraph 11 or 14;
 - (b) income support;
 - (c) an income-based jobseeker's allowance;
 - (d) an income-related employment and support allowance.
13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.
14. Any attendance allowance.
15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
16. (1) Any payment—
 - (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
 - (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
 - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

17. Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002.

18. (1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

19. (1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any

personal injury to the applicant;

- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the applicant; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

- (2) Sub-paragraph (1) shall not apply to a payment which is made or due to be made by—
 - (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
 - (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

20. Subject to paragraph 40, the total of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under 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;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;

- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

21. Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the Act
- (b) widowed parent's allowance paid pursuant to section 39A of the Act.

22. (1) Any income derived from capital to which the applicant is or is treated under paragraph 43 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 13.

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 13 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of "water charges" in Section 1 regulation 2(1) of this scheme applies to sub-paragraph (2) of this paragraph with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".

23. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, sections 1 or 2 of the Education Act 1962 or section 22 of the Teaching and Higher Education Act 1998, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

24. (1) Where the applicant is the parent of a student aged under 25 in advanced

education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23 of this Schedule, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount shall be equal to—

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

25. Any payment made to the applicant by a child or young person or a non-dependant.

26. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 of this Schedule refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

27. (1) Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per

cent of the excess over £20.

- (2) In this paragraph, “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.
- 28.** (1) Any income in kind, except where paragraph 28(11)(b) of this scheme (provision of support under section 95 or 98 of the Immigration and Asylum Act in the calculation of income other than earnings) applies.
- (2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.
- 29.** Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.
- 30.** (1) any payment made to the applicant in respect of a person who is a member of his family—
- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
- (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);
- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);
- (2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 31.** Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
 - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

32. Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant’s household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.

33. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

34. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
- 35.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
 - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
 - (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 36.** Any payment of income which by virtue of paragraph 38 of this scheme (income treated as capital) is to be treated as capital.
- 37.** Any payment made pursuant to the authority's scheme that replaces the Social Fund as provided for under part 8 of the SSCBA.
- 38.** Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).
- 39.** Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- 40.** The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 18(2) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 49(2)(b) and paragraph 50(1)(d) of this scheme (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 53(2) of this scheme (treatment of student loans), paragraph 55(3) of this scheme (treatment of payments from access

funds) and paragraph 21 of this schedule shall in no case exceed £20 per week.

41. (1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent, or

- (ii) where that person at the date of the payment is a child, a young person or a student, who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and

- (b) the payment is made either—

- (i) to that person's parent or step-parent, or

- (ii) where that person at the relevant date was a child, a young person or a student, who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

- (6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

- (7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

42. Any housing benefit.

43. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

44. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

45. Any payment in consequence of a reduction of council tax under section 13A(1)(c) of the 1992 Act (reduction of liability for council tax).

46. (1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003

(travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No 2) Regulations 2003 (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

47. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

48. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

49. (1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments shall be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance shall, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

50. (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

(a) The Child Support Act 1991;

(b) The Child Support (Northern Ireland) Order 1991;

- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

- 51.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 52.** Any guardian’s allowance.
- 53.** (1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.
- (2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant’s family.
- 54.** Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.
- 55.** In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
- 56.** (1) Any payment which is—
 - (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973;

and

(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph “the Dispensing Instruments” means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

57. Any council tax benefit to which the applicant is entitled for any period prior to 1st April 2013.

58. Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 11, where the applicant is a person who satisfies any of the conditions of subparagraph (2) of that paragraph, any amount of working tax credit up to £17.10.

59. Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).

60. (1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

(a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;

(b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) shall apply only in respect of payments which are paid to that person from the special account as defined for the purposes of Chapter 4A of Part 8 of the Jobseekers Allowance Regulations.

61. (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

- 62.** Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker's allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.
- 63.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.
- 64.** Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
- 65.** (1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
- (2) For the purposes of sub-paragraph (1) "local authority" includes, in England, a county council.
- 66.** Any payment of child benefit.

SCHEDULE 13
Paragraph 37

Capital disregards

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.
2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.
3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.
4. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 18 of this scheme (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling shall be disregarded under this paragraph.
5. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.
6. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.
7. Any premises occupied in whole or in part—
 - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
 - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole

of his capital.

9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.
10. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.
11. (1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the applicant where—
 - (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
 - (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for a reduction under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.
- (3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.
- (4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.
12. Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—
 - (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 12;
 - (b) an income-related benefit under Part 7 of the Act;
 - (c) an income-based jobseeker's allowance;
 - (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;

- (e) working tax credit and child tax credit;
- (f) an income-related employment and support allowance,

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

- (2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations 2001; and

- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of a reduction under this scheme, for the remainder of that period if that is a longer period.

- (3) For the purposes of sub-paragraph (2), “the period of an award of a reduction under this scheme” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and

- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—

- (i) is the person who received the relevant sum; or

- (ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death.

13. Any sum—

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

- 14.** Any sum—
- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
 - (b) which was so deposited and which is to be used for the purchase of another home,
- for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.
- 15.** Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to a reduction under this scheme or to increase the amount of that reduction.
- 16.** The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.
- 17.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.
- 18.** (1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.
- (2) But sub-paragraph (1)—
- (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
 - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.
- (3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.
- (4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).
- 19.** The value of the right to receive any income under a life interest or from a life rent.
- 20.** The value of the right to receive any income which is disregarded under

paragraph 15 of Schedule 11 or paragraph 29 of Schedule 12.

21. The surrender value of any policy of life insurance.
22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
23. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).
24. (1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—
 - (a) was formerly in the applicant's care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.
25. Any payment made pursuant to the authority's scheme that replaces the Social Fund as provided for under part 8 of the SSCBA.
26. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.
27. Any capital which by virtue of paragraph 29 or 53 (capital treated as income, treatment of student loans) is to be treated as income.
28. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
29. (1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
- (a) the person who is suffering from haemophilia or who is a qualifying person;
 - (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
 - (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.
- (4) Sub-paragraph (3) does not apply if—
- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
 - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which subparagraph (1) refers, where—
- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

- (8) For the purposes of sub-paragraphs (2) to (7), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

- 30.** (1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

- (2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

- 31.** Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

- 32.** Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first

commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

33. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.
34. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
35. The value of the right to receive an occupational or personal pension.
36. The value of any funds held under a personal pension scheme.
37. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.
38. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).
39. Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
40. Any payment in consequence of a reduction of council tax under section 13A(1)(c) of the Local Government Finance Act 1992 (reduction of liability for council tax) or section 80 of the Local Government Finance Act 1992 (reduced amounts), but only for a period of 52 weeks from the date of the receipt of the payment.
41. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—
 - (a) to purchase premises intended for occupation as his home; or
 - (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

- 42.** Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 12 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
- 43.** (1) Any payment or repayment made—
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No 2) Regulations 2003 (travelling expenses and health service supplies),
- but only for a period of 52 weeks from the date of receipt of the payment or repayment.
- (2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.
- 44.** Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.
- 45.** Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).
- 46.** Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.
- 47.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944 to assist disabled persons to obtain or retain employment despite their disability.
- 48.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958 to homeworkers assisted under the Blind Homeworkers' Scheme.

- 49.** (deleted)
- 50.** (1) Any sum of capital to which sub-paragraph (2) applies and—
- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
 - (b) which can only be disposed of by order or direction of any such court; or
 - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum of capital which is derived from—
- (a) an award of damages for a personal injury to that person; or
 - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 51.** Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from—
- (a) award of damages for a personal injury to that person; or
 - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.
- 52.** Any payment to the applicant as holder of the Victoria Cross or George Cross.
- 53.** In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.
- 54.** (1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
- (2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.
- (3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

- 55.** (1) Any payment—
- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
 - (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
 - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.]

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

- 56.** In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.
- 57.** Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.
- 58.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or interment of—

- (a) the applicant;
 - (b) the applicant's partner;
 - (c) the applicant's deceased spouse or deceased civil partner; or
 - (d) the applicant's partner's deceased spouse or deceased civil partner,
- by the Japanese during the Second World War, £10,000.

59. (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
 - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
 - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,
- whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom

a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

- (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (b) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) On the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,

whichever is the latest.

(5) In this paragraph, a reference to a person—

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for

the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

- 60.** The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant’s partner, the applicant’s deceased spouse or deceased civil partner or the applicant’s partner’s deceased spouse or deceased civil partner—
- (a) was a slave labourer or a forced labourer;
 - (b) had suffered property loss or had suffered personal injury; or
 - (c) was a parent of a child who had died,
- during the Second World War.
- 61.** (1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.
- (2) For the purposes of sub-paragraph (1) “local authority” includes in England a county council.
- 62.** Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).
- 63.** Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.
- 64.** Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

Section 3

Part 1

Service of notices of document

- 1 (1) any notice (including notification of a decision of a relevant authority) or other document is required to be given or sent to any person as the case may be, that notice or document shall, if sent by post to that person's last known address, be treated as having been so given or sent on the day it was posted .

Person treated as a person affected by a decision

2. (1) For the purposes of this reduction scheme and subject to paragraph (2), a person is to be treated as a person affected by a relevant decision of a relevant authority where that person is—
 - (a) an applicant or their partner;
 - (b) in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act—
 - (i) a receiver appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf,
 - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
 - (iii) an attorney with a general power or a power to receive benefit appointed by the person liable to make those payments under the Powers of Attorney Act 1971 or the Enduring Powers of Attorney Act 1985;
 - (c) a person appointed by the relevant authority under schedule 8 paragraph 6 sub paragraph 3 or schedule 8 paragraph 6 sub paragraph 5 of this scheme;
 - (d) a person from whom the relevant authority determines that an excess reduction is recoverable in accordance with this scheme.
- (2) Paragraph (1) only applies in relation to a person referred to in paragraph (1) where the rights, duties or obligations of that person are affected by a relevant decision.

Revision of decisions

- 3 (1) Subject to the provisions in this regulation, a relevant decision ("the original decision") may be revised or further revised by the relevant authority which made the decision where—
 - (a) subject to paragraph 9 sub-paragraph 3 the applicant, the applicant's partner or a person authorised under person affected makes an application for a revision within—
 - (i) one month of the date of notification of the original decision; or

- (ii) such extended time as the relevant authority may allow under paragraph 4;
 - (b) within one month of the date of notification of the original decision that authority has information which is sufficient to show that the original decision was made in ignorance of, or was based upon a mistake as to, some material fact; or
 - (c) an appeal is made under paragraph 9 of Schedule 7 to this scheme against the original decision in paragraph 9 of schedule 7.
- (2) An original decision may be revised or further revised by the relevant authority which made the decision, at any time by that authority, where that decision—
- (a) arose from an official error; or
 - (b) was made in ignorance of, or was based upon a mistake as to, some material fact and as a result of that ignorance of or mistake as to that fact, the decision was more advantageous to the person affected than it would otherwise have been but for that ignorance or mistake.
- (3) Where the relevant authority requires further evidence or information in order to consider all the issues raised by an application under paragraph (1)(a) (“the original application”), that authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be revised—
- (a) where the evidence or information so requested is provided within one month of the date of the notification or such longer period as the relevant authority may allow; or
 - (b) where such evidence or information is not provided within the period referred to in sub-paragraph (a), on the basis of the original application.
- (4) A relevant decision made in respect of a claim or an award may be revised where—
- (a) a decision in respect of that claim or that award is given by the First Tier Tribunal, Upper Tribunal, High Court and a higher court against a decision (“decision A”);
 - (b) the relevant decision was made after decision A; and
 - (c) the relevant decision would have been made differently had the relevant authority been aware of that appeal decision at the time it made the relevant decision.
- (5) Where the conditions of regulation 4 parts 7A, 7B, 7C, 7D, 7E or 7F of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 are satisfied then the Council Tax reduction may be revised at any time in accordance with these parts.
- (6) An application for a revision shall be made in writing and delivered, by whatever means, to the relevant authority or, in a case to which the Work-focused Interviews Regulations apply, either to the relevant authority or to an office of a designated authority which displays the ONE logo(3).
- (7) The relevant authority may treat an application for a supersession as an application for a revision.

- (8) Paragraph (1) shall not apply in respect of a change of circumstances which occurred since the decision had effect or where the relevant authority has evidence or information which indicates that a relevant change of circumstances will occur.

Late application for revision

- 4 (1) The time limit for making an application for a revision specified in regulation 3 may be extended where the conditions specified in the following paragraphs of this regulation are satisfied.
- (2) An application for an extension of time ("the application") shall be made in writing by the person affected by a relevant decision.
- (3) The application shall -
- (a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified;
 - (b) be made within 13 months of the date of notification of the decision which it is sought to have revised;
 - (c) be delivered, by whatever means, to the relevant authority.
- (4) The application shall not be granted unless the person affected satisfies the relevant authority that -
- (a) it is reasonable to grant the application;
 - (b) the application for revision has merit; and
 - (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in paragraph 3.
- (5) In determining whether it is reasonable to grant the application for an extension of time, no account shall be taken of the following -
- (a) that the person affected was unaware of or misunderstood the scheme applicable to his case (including ignorance or misunderstanding of the time limits imposed by these paragraphs); or
 - (b) that the Upper Tribunal or a court has taken a different view of the law from that previously understood and applied.
- (6) In determining whether it is reasonable to grant an application, the relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in paragraph 3 for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

- (7) An application under this regulation for an extension of time which has been refused may not be renewed.

Date from when revision takes effect

5. (1) Where, on a revision the relevant authority decides that the date from which a relevant decision (“the original decision”) took effect was erroneous, the decision shall take effect on the date the original decision would have taken effect had the error not been made.

Decisions superseding earlier decisions

6. (1) Subject to the provisions in this paragraph, the prescribed cases and circumstances in which a decision may be superseded sub-paragraph (2).

- (2) The appropriate relevant authority may make a decision upon its own initiative or on an application made for the purpose on the basis that the decision to be superseded is a decision -

- (a) in respect of which -

- (i) there has been a change of circumstances since the decision had effect; or
- (ii) it is anticipated that a change of circumstances will occur;

- (b) which is erroneous in point of law or made in ignorance of, or was based upon a mistake as to, some material fact provided that the decision -

- (i) cannot be revised on the basis of that error, ignorance or mistake

- (c) of a Valuation Tribunal, High Court—

- (i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (ii) that was made in accordance with paragraph 17(4)(b) of Schedule 7 to the Act, in a case where paragraph 17(5) of that Schedule to the Act applies;

- (d) which is affected by a decision of the Secretary of State that a joint-claim jobseeker’s allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001.

- (e) except where sub-paragraph (g), (h) or (i) applies, where—

- (i) the applicant has been awarded entitlement to council tax reduction; and
- (ii) subsequent to the first day of the period to which that entitlement relates, the applicant or a member of his family becomes entitled to an

award of a relevant benefit within the meaning of section 8(3) of the 1998 Act or an increase in the rate of that relevant benefit.

(f) where—

- (i) the applicant or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
 - (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;
 - (bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,
 - (cc) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005; or
- (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 or, as the case may be, paragraph 20D of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.

(g) where—

- (i) the applicant has been awarded entitlement to council tax reduction;
- (ii) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (iii) subsequent to the first day of the period to which entitlement to council tax reduction, the Secretary of State has decided that the claimant or the claimant's partner has, or is to be treated as having, limited capability for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act; and
- (iv) either—
 - (aa) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (bb) regulation 7 of the Employment and Support Allowance Regulations 2008(c) (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

(h) where—

- (i) the applicant has been awarded entitlement to council tax reduction;

- (ii) the applicant or the applicant's partner has had an award of benefit converted to an employment and support allowance in accordance with regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010; and
 - (iii) subsequent to the first day of the period to which that entitlement to council tax reduction relates, the Secretary of State makes a decision to supersede the award of employment and support allowance to award a different component;
- (l) where the applicant has been awarded entitlement to a council tax reduction and subsequent to the first day of the period to which that entitlement relates—
 - (i) a conversion decision of the kind set out in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect in respect of the claimant or the claimant's partner; or
 - (ii) the claimant or the claimant's partner is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.
- (3) The reference to a change of circumstances in paragraph (2)(a) shall include changes of circumstances specified in schedule 8 paragraph 9 sub-paragraph 3 of this scheme (changes of circumstances which do not need to be notified).
- (4) A decision which may be revised under paragraph 3 may not be superseded under this sub paragraph except where -
 - (a) circumstances arise in which the appropriate relevant authority may revise that decision under regulation 3; and
 - (b) further circumstances arise in relation to that decision which are not specified in paragraph 3 but are specified in sub-paragraph (2) or (5).
- (5) Where the appropriate relevant authority requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) ("the original application"), the authority shall notify the applicant that further evidence or information is required and, if it does so, the decision may be superseded -

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the appropriate relevant authority may allow; or
 - (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.
- (6) The appropriate relevant authority may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.
- (7) An application under this paragraph shall be made in writing and delivered, by whatever means, to the relevant authority.

Date from which a decision superseding an earlier decision takes effect

- 7 (1) A decision made by virtue of this reduction scheme shall take effect on a date other than the date on which it is made or the date on which the application was made in the cases or circumstances prescribed in sub-paragraphs (2) to (7).
- (2) Subject to paragraphs (3) and (6), where the superseding decision is made on the grounds that there has been, or it is anticipated that there will be, a change of circumstances, the superseding decision shall take effect on the date on which the change of circumstances is to take effect in accordance with -
- (a) schedule 8 paragraph 4
 - (b) paragraphs 46 and 47 of Section 1
 - (c) paragraph 72 of Section 2
- (3) For the purposes of determining the date on which a superseding decision is to take effect in accordance with paragraph (2), in a case where—
- (a) the change of circumstances is a change of circumstances that is required by this scheme to be notified; and
 - (b) that change of circumstances is notified more than one month after it occurs, or such longer period as may be allowed under paragraph 8; and
 - (c) the superseding decision is advantageous to the claimant,
- the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.
- (4) Where the superseding decision is advantageous to the applicant and is made on the ground that the superseded decision was made in ignorance of, or was based upon a mistake as to, some material fact, the superseding decision shall take effect from the first day of the benefit week in which -
- (a) except where sub-paragraph (b) applies, the appropriate relevant authority first has information which is sufficient to show that the superseded

decision was made in ignorance of, or was based upon a mistake as to, some material fact;

- (b) where the superseding decision was made pursuant to an application, that application was received by the appropriate relevant authority.
- (5) Where a decision is made superseding a decision of a Valuation Tribunal, High Court or other higher court (“the appeal decision”) which–
- (a) was made in ignorance of, or was based upon a mistake as to, some material fact; and
 - (b) was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake, that superseding decision shall take effect on the date on which the appeal decision took or was to take effect.
- (6) A superseding decision made as a consequence of a determination which is a relevant determination for the purposes of paragraph 18 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (restrictions on entitlement to benefit in certain cases of error) shall take effect from the date of the relevant determination.
- (7) Where the decision is superseded in accordance with paragraph 6(2)(a)(i) of this scheme and the relevant circumstances are that there has been a change in the rules in relation to this council tax reduction scheme, the superseding decision shall take effect from the date on which that change in rule had effect.
- (8) Where the superseding decision is made in a case to which regulation 6(2)(c)(ii) of this part applies, the superseding decision shall take effect from the date on which the decision of the valuation tribunal or higher court would have taken effect had it been decided in accordance with the determination of the Upper Tribunal, the Commissioner or the court in the appeal referred to in paragraph 17(1)(b) of Schedule 7 to the Act.
- (9) Subject to paragraph (17), where the reduction is superseded in accordance with 6(2)(i) the superseding decision shall take effect from the date on which entitlement arises to the relevant benefit referred to in 6(2)(i)(ii) or to an increase in the rate of that relevant benefit.
- (10) Where the reduction is superseded in accordance with 6(2)(j), the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the reduction week but, if it is not, from the next following such day.
- (11) Where the reduction is superseded in accordance with regulation 6(2)(o), or (p) the decision shall take effect from–
- (a) the first day of entitlement to an amount in consequence of the decision of the Secretary of State referred to in regulation 7(2)(o)(iii) or (p)(iii); or
 - (b) the first day that there would have been such entitlement had the claimant or the claimant’s partner been entitled to an employment and support

allowance by virtue of section 1 of the Welfare Reform Act, if that day is the first day of the benefit week but, if it is not, from the next following such day.

(12) Where a reduction is superseded in accordance with 6(2)(q) the decision shall take effect

(a) where the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect on or after 1st April in any year but before 16th April of that year—

(i) from 1st April for a council tax benefit award;

(b) in any other case, from the day the decision made in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 takes effect.

(13) Where the reduction is superseded in accordance with regulation 7(2)(a)(i) and the relevant circumstances are that the claimant has a non-dependant who has become entitled to main phase employment and support allowance, the superseding decision shall take effect from the date of the decision awarding main phase employment and support allowance to the non-dependant.

(14) Where the reduction is superseded under 6(2)(i) on the basis that the claimant or the claimant's partner is entitled to main phase employment and support allowance, the decision shall take effect from the day on which entitlement arose if it is the first day of a reduction week or, if it is not, from the first day of the next following reduction week.

(15) For the purposes of paragraphs (13) and (14)—

(a) "main phase employment and support allowance" means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007; and

(b) "non-dependant" has the meaning prescribed in regulation 3 of the Housing Benefit Regulations.

Effective date for late notification of change of circumstances

8 (1) For the purposes of making a decision under this reduction scheme a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for the purposes of sub-paragraph (1) shall—

- (a) include particulars of the change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
 - (b) be made within 13 months of the date on which the change occurred.
- (3) An application for the purposes of sub-paragraph (1) shall not be granted unless the appropriate relevant authority is satisfied that—
- (a) it is reasonable to grant the application;
 - (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
 - (c) special circumstances are relevant and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.
- (4) In determining whether it is reasonable to grant the application, the appropriate relevant authority shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for a superseding decision is made, the more compelling should be the special circumstances on which the application is based.
- (5) In determining whether it is reasonable to grant an application, no account shall be taken of the following—
- (a) that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by this reduction scheme); or
 - (b) that a court has taken a different view of the law from that previously understood and applied.
- (6) An application under this which has been refused may not be renewed.

Correction of accidental errors

- 9** (1) Accidental errors in a relevant reduction, or a revised reduction, or the record of such a reduction, may be corrected by the relevant authority at any time.
- (2) A correction made to a relevant reduction, or a revised reduction, or the record of such a reduction, shall be deemed to be part of the decision, or of that record, and the relevant authority shall give a written notice of the correction as soon as practicable to the applicant.
- (3) In calculating the time within which an application can be made under paragraph 3(1)(a) for a relevant decision to be revised there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the revision or record thereof under this sub paragraph(2).

Cases where a relevant authority may suspend

- 10.** (1) A relevant authority may suspend, in whole or in part—
- (a) any reduction (by way of council tax reduction) in the amount that a person is or will become liable to pay in respect of council tax, in the circumstances prescribed in paragraph (2).
- (2) The prescribed circumstances are where—
- (a) it appears to the relevant authority that an issue arises whether—
 - (i) the conditions for entitlement to council tax reduction are or were fulfilled; or
 - (ii) a decision as to an award of such a reduction should be revised under paragraph 3 (revision of decisions) or paragraph 6 (decisions superseding earlier decisions) of this part;
 - (b) an appeal is pending against—
 - (i) a decision of a valuation tribunal, a high court or a court; or
 - (ii) a decision given by a court in a different case, and it appears to the relevant authority that if the appeal were to be determined in a particular way an issue would arise whether the award of council tax reduction in the case itself ought to be revised or superseded; or
 - (c) an issue arises whether an excess payment of council tax reduction in accordance with this scheme has occurred.

Making or restoring of payments or reductions suspended

- 11.** (1) Subject to sub-paragraph (2), the prescribed circumstances for the purposes of this reduction scheme (the subsequent making, or restoring, of any or all of the payments or reductions so suspended) are—
- (a) in a case to which paragraph 10(2)(a) applies, where the relevant authority is satisfied that the reduction so suspended is properly payable and no outstanding issues remain to be resolved;
 - (b) in a case to which paragraph 10(2)(b) applies, an appeal is no longer pending and the reduction suspended remains payable following the determination of that appeal.
- (2) Where any of the circumstances in paragraph (1) is satisfied, the relevant authority shall, so far as practicable, make the payment, or as the case may be, restore the reduction within 14 days of the decision to make or restore that payment or reduction.

Suspension for failure to furnish information etc.

- 12.** (1) The relevant authority may suspend in whole or in part—
- (a) any payment of council tax reduction;
 - (b) any reduction (by way of council tax reduction) in the amount that a person is or will become liable to pay in respect of council tax,
- in relation to persons who fail to comply with the information requirements as defined in paragraph 7 of schedule 8 (information and evidence).
- (2) For the purposes of this sub-paragraph the prescribed persons are—
- (a) a person in respect of whom a reduction has been suspended under paragraph 10 (cases where a relevant authority may suspend);
 - (b) a person who has made an application for a reduction of the relevant authority to be revised or superseded;
 - (c) a person in respect of whom a question has arisen in connection with his award of reduction and who fails to comply with the requirement under paragraph 7 of schedule 8 (information and evidence) to furnish information or evidence needed for a determination whether a decision on an award should be revised under paragraph 3 or superseded under paragraph 6 of this part
- (3) The relevant authority shall notify any person to whom sub-paragraph (2) refers of the requirements.
- (4) A person to whom sub-paragraph (2) refers must—
- (a) furnish the information or evidence needed within a period of—
 - (i) one month beginning with the date on which the notification under sub-paragraph (3) was sent to him; or
 - (ii) such longer period as the relevant authority considers necessary in order to enable him to comply with the requirement; or
 - (b) satisfy the relevant authority within the period provided for in sub-paragraph (4)(a) that—
 - (i) the information or evidence so required does not exist; or
 - (ii) it is not possible for him to obtain the information or evidence so required.
- (5) Where a person satisfies the requirements in sub-paragraph (4), the relevant authority shall, so far as practicable, make, or as the case may be restore, the payment within 14 days of the decision to make or restore that payment.

Termination in cases of a failure to furnish information

- 13.** (1) An applicant in respect of whom payment of a reduction has been suspended—
- (a) under paragraph 10 (cases where a relevant authority may suspend) and who subsequently fails to comply with an information requirement; or
 - (b) under paragraph 12 (suspension for failure to furnish information etc) for failing to comply with such a requirement,
- shall cease to be entitled to the benefit from the date on which the payments or reduction were so suspended, or such earlier date on which entitlement to reduction ceases.
- (2) Sub-paragraph (1) does not apply—
- (a) subject to sub-paragraph (b), before the end of the period under paragraph 12(4) of this part for the provision of information
 - (b) where payment of a reduction has been suspended in part under paragraph 10 or paragraph 12.

Part 2

Meaning of excess reduction

- 14** In this Part "excess reduction" means any amount which has been allowed by way of council tax reduction and to which there was no entitlement under this scheme (whether on the initial decision or as subsequently revised or superseded or further revised or superseded) and includes any excess which arises by reason of—
- (a) a reduction in the amount a person is liable to pay in respect of council tax in consequence of—
 - (i) regulations made under section 13(a) of the 1992 Act (reduction in the amount of a person's council tax); or
 - (ii) any discount to which that tax is subject by virtue of section 11 or 79 of that Act;
 - (b) a substitution under sections 31 of the 1992 Act (substituted amounts) of a lesser amount for an amount of council tax previously set by the relevant authority under section 30 of that Act (amount set for council tax).

Recoverable excess reduction

- 15** (1) Any excess reduction, except reduction to which sub-paragraph (2) applies, shall be recoverable.

- (2) Subject to sub-paragraphs (4) and (5) and excepting any excess reduction arising in consequence of a reduction in tax or substitution to which paragraph 14, this paragraph applies to excess reduction allowed in consequence of an official error, where the applicant or a person acting on his behalf or any other person to whom the excess reduction is allowed could not, at the time the reduction was allowed or upon the receipt of any notice relating to the allowance of that reduction, reasonably have been expected to realise that it was excess reduction.
- (3) In sub-paragraph (2), "excess reduction allowed in consequence of an official error" means an over-allowance caused by a mistake made whether in the form of an act or omission by—
 - (a) the relevant authority;
 - (b) an officer or person acting for that authority;
 - (c) an officer of—
 - (i) the Department for Work and Pensions; or
 - (ii) the Commissioners for Her Majesty's Revenue and Customs, acting as such; or
 - (d) a person providing services to the Department or to the Commissioners referred to in (c), where the applicant, a person acting on his behalf or any other person to whom the payment is made, did not cause or materially contribute to that mistake, act or omission.
- (4) sub-paragraph (2) shall not apply with respect to excess reduction to which paragraph 14 refers.
- (5) Where in consequence of an official error a person has been awarded excess benefit, upon the award being revised or superseded any excess benefit which remains credited to him by the relevant authority in respect of a period after the date of the revision or supersession, shall be recoverable.

Authority by which recovery may be made

- 16** The relevant authority which allowed the recoverable excess reduction may recover it.

Person from whom recovery may be sought

- 17** Recoverable excess reduction shall be due from the applicant or the person to whom the excess reduction was allowed.

Methods of recovery

- 18** (1) Without prejudice to any other method of recovery a relevant authority may recover any recoverable excess reduction by any of the methods specified in sub-paragraph (2) and (3) or any combination of those methods.

- (2) Excess benefit may be recovered—
- (a) by payment by or on behalf of the applicant or the person to whom the excess reduction was allowed; or
 - (b) by an addition being made by the relevant authority to the amount payable in respect of the council tax concerned. It may be recovered in accordance with legislation governing the recovery of council tax.

Further provision as to recovery of excess reduction

- 19** In addition to the methods for recovery of excess reduction which are specified in this scheme, any sum or part of a sum which is due from the person concerned and which is not paid within 21 days of his being notified of the amount that is due, shall be recoverable in a court of competent jurisdiction by the authority to which the excess reduction is due.

Diminution of capital

- 20** (1) Where in the case of recoverable excess reduction, in consequence of a misrepresentation or failure to disclose a material fact (in either case whether fraudulent or otherwise) as to an applicant's capital, or an error, other than one to which paragraph 15 sub-paragraph 2 refers, as to the amount of an applicant's capital, the excess reduction was in respect of a period ("the excess reduction period") of more than 13 reduction weeks, the relevant authority shall, for the purpose only of calculating the amount of excess—
- (a) at the end of the first 13 reduction weeks of the excess reduction period, treat the amount of the capital as having been reduced by the amount of excess council tax reduction allowed during those 13 weeks;
 - (b) at the end of each subsequent period of 13 reduction weeks, if any, of the excess reduction period, treat the amount of that capital as having been further reduced by the amount of excess council tax reduction allowed during the immediately preceding 13 reduction weeks.
- (2) Capital shall not be treated as reduced over any period other than 13 reduction weeks or in any circumstances other than those, for which sub-paragraph (1) provides.

Sums to be deducted in calculated recoverable excess reduction

- 21** (1) In calculating the amount of recoverable excess reduction, the relevant authority shall deduct any amount of council tax reduction which should have been determined to be payable to the person from whom the excess reduction is recoverable or their partner in respect of the whole or part of the overpayment period—
- (a) on the basis of the claim as presented to the authority;

- (b) on the basis of the claim as it would have appeared had any misrepresentation or non-disclosure been remedied before the decision; or
 - (c) on the basis of the claim as it would have appeared if any change of circumstances had been notified at the time that change occurred.
- (2) In calculating the amount of recoverable excess reduction, the relevant authority may deduct so much of any payment of council tax in respect of the excess reduction period which exceeds the amount, if any, which the claimant was liable to pay for that period under the original erroneous decision.

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STATEMENT OF GAMBLING POLICY

Reporting Officer: Head of Democratic Services

SUMMARY

To seek Council's approval of the revised Statement of Gambling Policy following the statutory three year review of the policy and upon recommendation by Cabinet.

RECOMMENDATION: That the revised Statement of Gambling Policy, as attached, be adopted for immediate implementation until January 2016.

INFORMATION

The Gambling Act 2005 requires the Council, as the Licensing Authority, to review and publish a Statement of Gambling Principles every 3 years. The current statement expires in January 2013 and failure to have a new one in place would compromise subsequent decisions made by the Licensing Committee and/or its sub-committees.

The current policy has worked well since its implementation in 2007 and has not been subject to any challenge. There have been no significant amendments made to the Gambling Act 2005 by Government. Only minor changes were proposed to the existing policy, which are further outlined in the Cabinet report of 20 December 2012.

In agreeing this policy framework document, Council should note:

- 1) Cabinet at its meeting on 27 September 2012 agreed the draft revised policy for consultation;
- 2) Consultation on the revised policy took place during October / November 2012 to a wide variety of community groups and relevant organisations, including the Licensing Committee and the Residents' & Environmental Services Policy Overview Committee;
- 3) Following consultation, Cabinet on 20 December 2012 subsequently endorsed the revised policy and recommended it to Council for approval.

Attached is the covering report and revised policy from the Cabinet meeting on 20 December 2012.

Financial Implications

Any costs associated with minor changes in the policy, can be met from within existing budgets.

Legal

There are no additional legal issues other than those highlighted in the report.

BACKGROUND PAPERS: Gambling Act 2005.

STATEMENT OF GAMBLING POLICY REVIEW

Cabinet Member(s)	Cllr Jonathan Bianco
Cabinet Portfolio(s)	Finance, Property and Business Services
Officer Contact(s)	Sharon Garner / Stephanie Waterford, Residents Services
Papers with report	Appendix 1 - Draft Review of Statement of Gambling Principles 2013 – 2016

1. HEADLINE INFORMATION

Summary	To seek Cabinet approval of the draft Statement of Gambling Principles, prior to adoption by full Council on 17 th January 2013
Contribution to our plans and strategies	Putting our residents first Sustainable Community Strategy Protection of Children and Vulnerable Persons
Financial Cost	There are no additional costs arising from the proposed changes to the Statement of Gambling Principles.
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	All

2. RECOMMENDATION

That Cabinet:

- Notes the recent consultation on the proposed changes to the Draft Statement of Gambling Principles (the policy), to which no responses were received.**
- Approves the final document including the changes summarised in Para 3.b of this report and recommends adoption of the policy to full Council on 17th January 2013.**

Reasons for recommendations

Under policy framework procedures, Cabinet must approve the draft statement of gambling principles before it can be submitted to full Council for full adoption on 17th January 2013.

Alternative options considered / risk management

Council 17 January 2013

The Gambling Act 2005 requires the Council, as the Licensing Authority, to publish a Statement of Gambling Principles, every 3 years.

The current statement expires in January 2013, and failure to have a new one in place may affect Gambling Act 2005 decisions made by the Licensing Committee and/or its sub-committees.

Policy Overview Committee comments

The Residents' and Environmental Services Policy Overview Committee noted the report on 15th November 2012.

3. INFORMATION

3.a - Supporting Information

In May 2012, a working party was convened to start the second review of the Council's Statement of Gambling Principles. The working party was made up of the following officers:

- Stephanie Waterford, Licensing Service Manager;
- Sharon Garner, Licensing Officer;
- Sarah White, Licensing Lawyer;
- Paul Hewitt, Local Safeguarding Children Board.

The current policy has worked well since its implementation in 2007 and has not been subject to any challenge. There have been no significant amendments made to the Gambling Act 2005 by Government. It was therefore decided by the working party not to amend the content or format of the existing policy to any great degree, until further consultation with stakeholders was carried out.

The working party was re-convened after some discussion with relevant stakeholders, and the policy was then amended accordingly.

3.b – Summary of changes to the Statement of Gambling Principles

In summary, the proposed amendments to the policy include:

- Preface – Deleted, as the working party felt that this was superfluous to the needs of the policy.
- Para 1.5 – 1.9 Deleted as the working party felt that they were superfluous to the needs of the policy.
- Para 1.13 – Deleted as this is not necessary for this review of the policy.
- Para 1.14 – Amended - Full list of consultees provided.
- Para 1.17 – Deleted as the working party felt that this was superfluous to the needs of the policy.
- Para 4.19 and 4.20 – Inserted to explain concisely how each case will be dealt with and how applicants should prepare their application.
- Para 4.30 – Inserted to address the resolution to prohibit casinos in the Borough
- Para 4.70 and 4.73 – Revised and expanded to explain the process of reviewing a premises licence.

- Para 7.13 – Amended to explain the expectation for small society lotteries to renew their registrations each year
- Appendix B – Deleted as the working party felt that it was not necessary to include a map of Hillingdon.
- Appendix D – Amended - Delegation of powers to revoke an automatic entitlement for gaming machine notifications

The finalised "Draft Statement of Gambling Principles 2013-2016" is at Appendix 1 to this report. The amendments and deletions listed above are shown in this version of the policy.

3.c – Approval and time line

The approval process and time-line is shown below:

- Draft policy to Cabinet for comments before consultation: 27/09/12
- Draft policy to RESPOC for scrutiny: 18/10/12
- Draft policy to Cabinet for approval: 20/12/12
- Draft policy to full Council: 17/01/13
- Policy comes into force, until 2016.

3.d - Financial Implications

The cost to the Council of implementing the Statement of Gambling Principles is met from gambling licence fees and contained within the existing revenue budgets of Residents Services.

4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

4.a - What will be the effect of the recommendation?

The Gambling Act 2005 requires the Council, as the Licensing Authority, to have a "Statement of Gambling Principles". The legislation requires the Licensing Authority to promote the three prime licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way and;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Statement of Gambling Principles therefore has an impact on local residents, service users, local businesses and communities.

4.b - Consultation Carried Out or Required

Full consultation on the amendments was carried out between 28th September 2012 and 9th November 2012.

Consultees included:

- Elected Members;

Council 17 January 2013

- Gambling trade representatives;
- Responsible Authorities;
- Neighbouring local authorities;
- Local residents associations and local community groups;
- Licensing Solicitors;
- Licensed premises.

No responses were received from the consultees.

5. CORPORATE IMPLICATIONS

5.a - Corporate Finance

Corporate Finance has reviewed this report and concurs with the financial implications set out above; noting that all costs associated with this review will be met from existing revenue budgets.

5.b - Legal

The London Borough of Hillingdon is required to reconsider and produce a revised Statement of Principles under Section 349 of the Gambling Act 2005 which states:

A licensing authority shall, before each successive period of three years:

- (a) Prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period and;
- (b) Publish the statement.

The Statement of Principles has to be determined in consultation with the police, those representing the interests of persons carrying on local gambling businesses, those representing the interests of residents likely to be affected, the Gambling Commission and others that are suggested in the guidance. The process of consultation and the content of the proposed policy outlined in this report complies with the requirements of the Gambling Act 2005.

It is vital that the approval process and time-line detailed above is adhered to in order to ensure the timely approval of a new gambling policy.

BACKGROUND PAPERS: NIL

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Preface

London Borough of Hillingdon Council recognises that gambling today has become part of the mainstream of leisure activity and the potential impact it has on the community within the Borough, including the valuable cultural, social and economic importance of the leisure industry and the benefits it brings to the area and its citizens. We also recognise some of the downsides, such as gambling presenting particular risks to children and the vulnerable that other forms of leisure do not.

We are aware that the three licensing objectives underpinning the legislation highlight an important need for businesses offering commercial gambling to operate in a socially responsible manner and we endorse this as a central principle in our Statement of Principles and decision-making responsibilities.

Our principles statement also aims to reflect that everyone in the community has a stake in the licensing decisions made by us, the licensing policies and strategies applied and how competing needs and aspirations will be met to achieve a fair balance between local stakeholders. Ultimately, this will involve striking a balance between the different aspirations and needs of local businesses, residents and visitors to the borough.

In adopting this policy, we seek to address the needs and concerns of residents and businesses to ensure a safe and healthy environment in which to live and work, together with safe and well-run entertainment premises that will promote and sustain a forward-looking and prosperous local economy.

PART 1 THE GAMBLING ACT 2005

INTRODUCTION

1.1 London Borough of Hillingdon Council is the Licensing Authority under the Gambling Act 2005. This means that the Council is responsible for granting Premises Licences in respect of betting premises, bingo premises, casino premises, adult gaming centres and family entertainment centres as well as issuing a range of gaming permits and other authorisations for gambling within the Borough. As Licensing Authority, we are also empowered under the Act to impose conditions and review licences, as well as take enforcement action when an offence under the Act has been committed or when premises or activities are unlicensed, or licence conditions are not complied with. This is coupled with powers of entry and inspection to ensure compliance.

The Licensing Framework

1.2 In exercising most of our decision-making functions we are required to have regard to the three Licensing Objectives set out in Section 1 of the Gambling Act, namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

1.3 We are also bound by section 153 of the Act, which requires us, in making decisions concerning Premises Licences and Temporary Use Notices, to aim to permit the use of premises for gambling insofar as we think fit, subject to such decisions being:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement of Licensing Principles

The Policy

- 1.4 Section 349 of the Act requires us to publish a *Statement of Principles* (or policy) that we will apply when exercising our various functions under the Act. This Statement of Principles fulfils that statutory requirement and details throughout the document the Council's general approach to the making of licensing decisions.
- 1.5 ~~Part 1 of the principles document gives a summarised overview of the statutory framework within which most of our decisions will be made. It also includes a short profile of the Borough of Hillingdon, which is intended to set the scene from a local perspective.~~
- 1.6 ~~The Council's approach to addressing the licensing objectives is discussed in detail in Part 2, but will be referred to, where relevant, throughout this document.~~
- 1.7 ~~Part 3 reflects that we have taken an integrated approach, as far as is possible, to ensure that the key objectives of the Act are met as well as provide important support to the Council's Community Strategy, "Working together for a better future" and various other core council objectives, initiatives and strategies. It also addresses the principle of non-duplication with other regulatory regimes.~~
- 1.8 ~~Parts 4 - 7 inclusive, sets out in detail the main principles this authority intends to apply when making decisions in respect of Premises Licences, Gaming and Gaming Machine Permits, Notices and Lottery Registrations.~~
- 1.9 ~~Part 8 describes our decision making responsibilities and the allocation of those responsibilities and Part 9 comprises the various appendices referred to within the document.~~
- 1.10 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 1.11 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. Our Statement of Principles is designed to be a strategic (Gambling) Licensing Policy, not an operational guide to the Gambling Act or a guide to the application process.
- 1.12 This policy is supplemented by guidance documents for residents and the trade on the application and licensing process. These documents will assist applicants and objectors in understanding their rights and responsibilities under the Act in respect of:

- applying for licences and other gambling permissions
 - making representations
 - complaints about a premises licensed under the Act and review rights
 - committee hearings and the decision making process
- The information is available on the Council's website or on request by contacting the Hillingdon Licensing Service.

CONSULTATION

~~1.13 Consultation on Hillingdon's Statement of Licensing Principles lasted 6 weeks, commencing on 17th July 2009 and ending on 28th August 2009.~~

1.14 The Council has, in accordance with the section 349(3) of the Gambling Act, consulted with:

- i) London Borough of Hillingdon Council Licensing Authority
- ii) The Gambling Commission
- iii) The Chief Officer of Police for the London Borough of Hillingdon (where relevant, Chief Officer of Police for Heathrow)
- iv) London Fire & Emergency Planning Authority, Hillingdon Fire Station
- v) London Borough of Hillingdon Council Planning Authority
- vi) London Borough of Hillingdon Council Environmental Protection Unit (*i.e. authority responsible for pollution and harm to human health*)
- vii) Hillingdon Local Safeguarding Board
- viii) HM Revenue and Customs
- ix) Authority for Vulnerable Adults
- x) A Licensing Authority in whose area the premises is situated (*i.e. the Council itself and also any adjoining Council where premises straddle the boundaries between the two*).

(i) Persons who appear to this authority to represent the interests of persons carrying on gambling businesses in the borough of Hillingdon and neighbouring boroughs

(ii) Persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of this authority's functions under the Gambling Act 2005

1.15 A comprehensive list of the persons and/or bodies we have consulted is attached at Appendix A. A summary of the consultation responses can be found on the Council's website. The full list of comments made and consideration given to those responses is available on request by contacting the Authority's Licensing ~~Service Team.~~ **Service Team.**

DECLARATION

- 1.16 In producing the final Statement of Principles, this Licensing Authority declares that it has had regard to the Licensing Objectives and the Gambling Act 2005, the Guidance issued by the Gambling Commission and responses from those consulted on the policy statement.

PROFILE OF HILLINGDON

- ~~1.17 Hillingdon is a vibrant outer London Borough. Its 42 square miles make it London's second largest borough. Buckinghamshire, Hertfordshire, Surrey and the London Boroughs of Hounslow, Harrow and Ealing are our neighbours. It is home to approximately 248,000 people, representing a vast range of cultures and nationalities. Hillingdon contributes greatly to the economic success of the capital, yet it remains one of London's greenest boroughs. As the home of Heathrow airport it is also London's foremost gateway to the world. The 2001 UK census suggested that Hillingdon was a relatively affluent area. Unemployment overall was lower than the national average with 2.7% of 16 to 74 year olds registered unemployed compared to a national average of 3.4%. 26% of Hillingdon's population is children and young people aged 0-19 years.~~
- ~~1.18 A Map of Hillingdon is attached at Appendix B showing the geographical area covered by this Policy.~~

AUTHORISED ACTIVITIES

- 1.19 Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:
- (i) Gaming means playing a game of chance for a prize
 - (ii) Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
 - (iii) A Lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process that relies wholly on chance.

- 1.20 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.
- 1.21 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's Licensing Team where appropriate.

LICENSING AUTHORITY FUNCTIONS

1.22 Under the Act, the Council will be responsible for:

- Licensing of premises where gambling activities are to take place by issuing premises licences
- Issuing Provisional Statements
- Regulating Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issuing Club Machine Permits to commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving Notifications from Alcohol Licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- Granting licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Registering Small Society Lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to Gambling Commission regarding details of Licences issued (see section on Information Exchange)
- Maintaining Register of Licences and Permits issued under these functions
- Exercising its powers of enforcement under the Act in partnership with the Gambling Commission and other relevant responsible Authorities.

RESPONSIBLE AUTHORITIES

1.23 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

1.24 Within the meaning of Section 157 of the Act, those authorities are:

- xi) London Borough of Hillingdon Council Licensing Authority
- xii) The Gambling Commission
- xiii) The Chief Officer of Police for the London Borough of Hillingdon (where relevant, Chief Officer of Police for Heathrow)
- xiv) London Fire & Emergency Planning Authority, Hillingdon Fire Station
- xv) London Borough of Hillingdon Council Planning Authority
- xvi) London Borough of Hillingdon Council Environmental Protection Unit (*i.e. authority responsible for pollution and harm to human health*)
- xvii) Hillingdon Local Safeguarding Board
- xviii) HM Revenue and Customs
- xix) Authority for Vulnerable Adults
- xx) A Licensing Authority in whose area the premises is situated (*i.e. the Council itself and also any adjoining Council where premises straddle the boundaries between the two*).

For Vessels only:

- (xi) Section 211(4) of the Act provides that the following are Responsible Authorities in addition to the authorities listed under section 157 of the Act:
 - (a) The Navigation Authority (*whose statutory functions are in relation to waters where the vessel is usually moored or berthed*)
 - (b) The Environment Agency,
 - (c) British Waterways and
 - (d) The Secretary of State for Culture, Media and Sport (DCMS)

1.25 Subject to any other person being prescribed in Regulations by the Secretary of State. The contact addresses for these authorities are illustrated at Appendix C, or available via the Council's website.

DESIGNATED BODY PROTECTING CHILDREN FROM HARM

1.26 The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm.

1.27 The principles are that:

- (i) The designated body must be responsible for an area covering the whole of the Licensing Authority's area
- (ii) The designated body must be answerable to democratically elected persons, rather than any particular vested interest group etc.

1.28 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board for this purpose.

1.29 The remit of the Board is to co-ordinate and scrutinise arrangements for safeguarding and promoting the welfare of Hillingdon's children. It operates throughout the Borough, is responsible for the area covered by the Licensing Authority and this Policy; and has specialist knowledge and experience in the protection of children to fulfil this role.

INTERESTED PARTIES

1.30 Interested parties can make representations about licence applications, or apply for a review of an existing licence. For the purposes of the Gambling Act 2005 interested parties will include persons who:

- (i) Live sufficiently close to premises carrying out gambling activities
- (ii) Have business interests that might be affected; and
- (iii) Represent persons listed above

1.31 We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party. This Licensing Authority's principles are set out in the following paragraphs:

Statement of Principles

1.32 Each case will be decided upon its merits. We will not apply a rigid rule to our decision-making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.

1.33 Interested parties can include trade associations and unions; and residents' or tenants' associations, providing that they can show they represent someone who would be classed as an interested party in their own right. Within the meaning of the Act, interested parties can also be persons who are democratically elected such as Councillors and MPs.

1.34 Generally, the principles we will apply when deciding whether or not a person is an interested party will include looking at the size of the premises where larger premises may be considered to affect people over a broader geographical area compared to smaller premises offering similar facilities and the nature of the activities being conducted on the premises. As to the different elements of the definition of "Interested Party", the Licensing Authority will take into account the following specific matters of principle:

1.35 Persons living "Sufficiently Close"

The Licensing Authority recognises "sufficiently close to be likely to be affected" could have a different meaning for, for instance, a private resident, a residential school for children with problems and a residential hostel for vulnerable adults and will therefore deal with each representation on its individual merits.

1.36 In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities the Council may take account of the:

- (i) Size of the premises
- (ii) Nature of the premises
- (iii) Nature of the authorised activities being proposed
- (iv) Distance of the premises from the person making the representation
- (v) Characteristics of the complainant
- (vi) Potential impact of the premises

1.36 Persons with business interests likely to be affected

With regard to those persons with business interests that could be affected, the Licensing Authority will (in addition to factors set out in paragraph 1.38 above) need to be satisfied that the relevant business is indeed likely to be affected and the following factors will therefore be taken into account:

- i) The 'catchment' area of the premises (i.e. how far people travel to visit); and
- ii) Whether the person making the representation has business interests in that catchment area that might be affected.
- iii) Whether or not the representation is purely based on 'competition' as the Licensing Authority does not consider this to be a relevant representation.

1.37 Persons/bodies representing persons named above

With regard to persons representing persons living sufficiently close and persons having business interests that may be affected, the Licensing Authority will include trade associations and unions.

1.39 Where a Councillor represents an interested party, in order to avoid conflict of interest, the Councillor cannot be part of the Licensing Committee dealing with the licence application. When in doubt, Councillors are asked to contact the Council's Legal Services to gain further advice.

1.40 Other than Councillors and MPs, this authority will require written evidence that a person represents someone who either lives sufficiently close to the premises to be likely to be affected by authorised activities and/or business interests that might be likewise affected. A letter from one of these persons confirming their wish to be represented will be sufficient.

Exchange of Information

1.41 Under the Gambling Act, we will have a key role in providing information to the Gambling Commission to assist it in carrying out its functions. This Licensing Authority recognises the need to work closely with the Gambling Commission in exchanging information as and when required.

1.42 As Licensing Authority we are required to include in our policy statement the principles we intend to apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

Statement of Principles

1.43 This Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

1.44 Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the

Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is asked to do so.

- 1.45 The Licensing Authority will work closely with the Gambling Commission, Local Police Enforcement in Hillingdon; and with other Responsible Authorities where there is a need to determine whether there is a need for exchange of information on specific premises.
- 1.46 We are aware that the Gambling Commission recommends in its Guidance to Local Authorities that a Protocol for the sharing of such information should be established between, us, the Licensing Authority, the Gambling Commission itself and relevant Responsible Authorities in order to target agreed problem and high risk premises that require greater attention while providing a lighter touch in respect of well-run, low risk premises.

Enforcement

- 1.47 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 1.48 This Licensing Authority's principles are that:
- (i) It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
 - Proportionate: we will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised
 - Accountable, with decisions being justifiable, and be subject to public scrutiny
 - Consistent: rules and standards will be joined up and implemented fairly
 - Transparent and Open: Licence conditions will be kept simple and user friendly
 - Targeted: regulation will be focused on the problem, and minimise side effects.
 - (ii) The Council will avoid duplication with other regulatory regimes so far as possible.
 - (iii) This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

- (iv) We note the Gambling Commission's guidance that: in order to ensure compliance with the law, this Licensing Authority must prepare a Risk - based Inspection Programme and that we carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories High, ~~Medium-High~~, Medium and Low; and that we also carry out 'non routine' evening programmed inspections. Where one-off events are taking place under a Temporary Use Notice or Occasional Use Notice, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted.
 - (v) High-risk premises are those premises that require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.
- 1.49 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which is authorised.
150. The Gambling Commission will be the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission. This authority also understands from LACORS that the Gambling Commission will be responsible for compliance as regards unlicensed premises.
- 1.51 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act 1998, in particular:
- i) Article 1, of the First Protocol: that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
 - ii) Article 6: that in the determination of civil rights and obligations everyone is entitled to a fair hearing within a reasonable time by an independent and impartial tribunal established by law.
 - iii) Article 8: that everyone has the right to respect for his or her home and private family life.
 - iv) Article 10: that everyone has the right to freedom of expression within the law.
- 1.52 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

PART 2 PROMOTING THE LICENSING OBJECTIVES

2.1 In exercising its functions under the Gambling Act 2005, London Borough of Hillingdon Council will have regard to the three statutory licensing objectives, which are:

- (i) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- (ii) Ensuring that gambling is conducted in a fair and open way
- (iii) Protecting children and other vulnerable persons from being harmed or exploited by gambling

2.2 In promoting these objectives, the Council has considered the Gambling Commission's Guidance to Local Authorities and makes the following observations as to the principles it intends to apply when considering the three objectives:

PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME OR DISORDER, BEING ASSOCIATED WITH CRIME OR DISORDER OR BEING USED TO SUPPORT CRIME.

2.3 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

2.4 Anyone applying to the Council for a Premises Licence will have to hold an Operating Licence from the Gambling Commission before a licence can be issued. Therefore, the Council will not generally be concerned with the suitability of an applicant. However, if during the course of considering a Premises Licence application or at any other time, the Licensing Authority receives such information that causes it to question the suitability of the applicant, those concerns will be brought to the immediate attention of the Gambling Commission.

2.5 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime **or crime directly associated with gambling premises**, the Council will, in consultation with the Police and other relevant Responsible Authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. In appropriate circumstances, the Licensing Authority may consider appropriate conditions to be attached to the Licence, such as Door Supervisors.

- 2.6 Issues of disorder should only be dealt with under the Act if the disorder amounts to a form of activity, which is more serious and disruptive than mere nuisance, and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police or ambulance assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 2.7 The Licensing Authority recognises that disorder may be focused on premises and therefore recommends an applicant takes such controls as necessary to prevent such disorder and nuisance. Examples may include thought given to the way that gambling is conducted on the premises, sighting of large payout machines, levels of noise from public address systems that should ideally be sited at the back of the premises away from residential areas.
- 2.8 Where there are persistent levels of disorder, the Licensing Authority will liaise closely with the Gambling Commission to consider the suitability of the applicant as an operator. In addition, the Licensing Authority will strive to have a good working relationship with the Police in accordance with any protocol that is currently in place.

ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

- 2.9 All gambling should be fair in the way it is played with transparent rules such that players know what to expect. Examples may include easily understandable information being made available on the rules and probability of winning/losing, ensuring the rules are fair and that advertising is not misleading. Further recommendations would be to ensure that the results of competitions/events are made public; and that machines, equipment and software meet the required standards set by the Gambling Commission.
- 2.10 Generally, it is for the Gambling Commission to ensure this Licensing Objective is complied with through the Operating and Personal Licence regime covering the management of a gambling business and the suitability and actions of an individual.
- 2.11 However, with regard to Race Tracks, where Betting Track Operators do not need an Operators Licence from the Gambling Commission, the role of the Licensing Authority is more significant. The Licensing Authority, in certain circumstances, may seek to impose conditions to ensure that the environment in which betting takes place is suitable. The Licensing Authority may wish to know the nature of the venue, have sight of a plan of the track which would include access to the tent where gambling is to take place, where the operators will conduct on course betting and whether or not there are any off course betting operators.

PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS FROM BEING HARMED OR EXPLOITED BY GAMBLING

- 2.12 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 2.13 This Authority notes and endorses the Gambling Commission statement that: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".
- 2.14 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.
- 2.15 When considering whether to grant a premises licence or permit the Council will consider whether any measures are necessary to protect children or vulnerable young persons from being harmed or exploited by gambling, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc. These measures will be particularly relevant on mixed use premises, tracks where children have freedom of movement in betting areas on race days and in particular to the non-gambling areas of casinos. Other such measures may include appropriate signage, location of machines and numbers of staff on duty.
- 2.16 Whilst the Gambling Act does not prohibit vulnerable groups in the same manner as children and young persons, with regard to vulnerable people, the Licensing Authority will consider whether or not any measures have been taken to protect such a group. Any such considerations will be balanced against the Licensing Authority's aim to permit the use of premises for gambling; each application will be treated on its own merit. The term "vulnerable persons" has not been defined under the Act, but in seeking to protect vulnerable people the Council will consider that "vulnerable persons" include (but not limited to):
- (i) People who gamble more than they want to
 - (ii) People who gamble beyond their means, and
 - (iii) People who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs

- 2.17 Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:
- i) Betting Shops cannot admit anyone under 18
 - ii) Bingo Clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
 - iii) Adult Entertainment Centres cannot admit those under 18
 - iv) Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
 - v) Clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
 - vi) Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.
- 2.18 With this Licensing Objective in mind, the Licensing Authority will take particular care when considering applications for more than one licence for a building and those relating to a discrete part of a building used for other non-gambling purposes, such as shopping malls. Where relevant, applicants will be expected to take measures to ensure young persons, and children are not in close proximity to gambling. Such measures could include sighting machines at the back of a premises so as to ensure young children do not have sight of such machines, not advertising gambling so as to encourage children and ensuring there is no accidental access to observe or enter premises used for gambling.
- 2.19 The Licensing Authority recommends that measures are taken to ensure entrances and exits from parts of a building covered by one or more licences are separate and identifiable so that people do not drift into a gambling area in error. Such measures could include appropriate signage, physically separating Family Entertainment Centres and Adult Gaming Centres, and supervision of entrances.
- 2.20 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through another premises and will consider whether or not children can gain access; the compatibility of the two establishments and its ability to comply with requirements of the Gambling Act. The Licensing Authority will also consider whether the co-location of the licensed premises with

other facilities will create an arrangement that is likely to be prohibited under the Act.

- 2.21 The Licensing Authority will consider multiple licences carefully and applicants are recommended to configure these buildings carefully if they seek to develop multi purpose developments and in particular consider how they will protect children from being harmed by gambling as well as preventing children from being in close proximity to gambling. Applicants are also requested to consider entrances and exits from parts of the building covered by one or more licences. These exits and entrances should be separate and identifiable to ensure children do not 'drift' into a gambling area.
- 2.22 The Licensing Authority recommends that all staff are suitably trained and aware of the Gambling laws, social responsibility and statutory requirements related to age restrictions on gaming machines. Appropriate measures should be taken to prevent under age use of such machines, including clear and appropriate signage, an approved Proof of Age scheme, a requirement for staff to be vigilant and aware at all times and ensuring the Adult Gaming area is not visible from the street.
- 2.23 The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people it will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.
- 2.24 When determining the location of proposed gambling facilities, this Licensing Authority in appropriate circumstances, will consider very carefully the following factors when considering applications for Premises Licences, permits and other permissions:
- i) Proximity of premises to local schools
 - ii) Proximity of premises to centres that pose a high risk to vulnerable and young persons
 - iii) Proximity of premises to residential areas where there is a high concentration of children and young people
 - iv) Proximity of premises to places of worship, particularly where Sunday Schools are in operation

PART 3
INTEGRATING STRATEGIES AND OTHER REGULATORY REGIMES

INTEGRATING STRATEGIES

- 3.1 The Council considers that the Licensing Statement of Principles should provide clear indications of how we, as Licensing Authority, will secure the proper integration of this policy with local crime prevention, planning, transport, tourism, equalities and diversity schemes together with other council plans introduced for the management of town centres and the night-time leisure economy. Many of these strategies are not directly related to the promotion of the three licensing objectives, but indirectly impact upon them. Coordination and integration of such policies, strategies and initiatives, so far as is possible and consistent with the licensing objectives, is therefore important to us. We will liaise with the relevant authorities or its directorates with regard to this and in doing so adopt a multi-disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives, including making arrangements for the Council's Licensing Committee to receive reports from time to time on the:
- i) Needs of the local tourist economy;
 - ii) Cultural strategy for the area;
 - iii) Employment situation in the area and the need for new investment and employment where appropriate;
 - iv) Local Crime Prevention Strategies
 - v) Race Equality Schemes
 - vi) Enforcement Policy
- 3.2 Reports to the Licensing Committee from other relevant departments should enable the various agencies or departments with their own strategies, aims and objectives to keep the Licensing Committee aware of the wider picture in pursuance of the licensing objectives. It is our intention that we will, through the Council's Licensing Committee, monitor how the matters above set out impact on the licensing of gambling activities and facilities and other functions in order to achieve seamless integration of our licensing function with other relevant strategies and initiatives.
- 3.3 In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 3.4 Similarly, where other legislation confers powers on inspection and enforcement agencies in relation to separate activities and concerns relating to licensed premises, this policy does not affect the continued use of such powers by the relevant agency.

PART 4

PREMISES LICENCES

GENERAL PRINCIPLES

- 4.1 Premises Licences authorise the provision of gambling facilities on the following:
- i) Casino Premises
 - ii) Bingo Premises
 - iii) Betting Premises, including race tracks used by betting intermediaries
 - iv) Adult Gaming Centres
 - v) Family Entertainment Centres
- 4.2 Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be issued to people with the relevant Operating Licences.
- 4.3 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State.
- 4.4 We as the Licensing Authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 4.5 Under the Act the Hillingdon Council has no discretion to grant Premises Licences in circumstances where that would mean departing from the Gambling Commission Guidance and Codes of Practice and this Licensing Authority's own Statement of Licensing Principles. Therefore, our primary focus shall be to aim to permit the use of premises for gambling in so far as we think it:
- i) In accordance with any relevant Code of Practice issued by the Gambling Commission
 - ii) In accordance with any relevant Guidance issued by the Gambling Commission
 - iii) Reasonably Consistent with the Licensing Objectives and
 - iv) In accordance with this Statement of Licensing Principles
- 4.6 The Council appreciates that gambling can be an emotive subject but acknowledges and endorses the Gambling Commission Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences " (except as regards any "no casino resolution") and also that unmet demand is not a criterion for a Licensing Authority.

- 4.7 We recognise that the responsibility for an individual's gambling is his or her own and that the responsibility to exercise a duty of care lies with the site operator. However, the Licensing Authority recommend applicants for Adult Gaming and Family Entertainment Centres to consider adopting BACTA's *Code of Social Responsibility and Good Practice* and where gaming machines are concerned, applicants are recommended to adopt BACTA's *Code of Practice for AWP*s in Family Entertainment Centres and Adult Gaming Centres.
- 4.8 Where there are age restrictions on entry to certain premises, the Licensing Authority recommends applicants consider and adopt BACTA's and GamCare's joint training initiative on a *Site Age-of-Entry Control Policy*.
- 4.9 We also recognise that most customers are able to enjoy and control their gambling, however, where there are those who are unable to control gambling, the Licensing Authority recommends that applicants adopt BACTA's and GamCare's *Site Self-Exclusion Policy* for those particular clients to request their exclusion for a fixed period.

Definition of Premises

- 4.10 Premises are defined in the Act as "any place". Different premises licences cannot apply in respect of a single premise at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.
- 4.11 The Council will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 4.12 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 4.13 This licensing authority takes particular note of the Gambling Commission's Guidance for Local Authorities, which states that:
- i) Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

- ii) Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and the ability to comply with the requirements of the Act. But in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

Provisional Statement

- 4.14 Under the Act an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to the term, “the premises” are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling.
- 4.15 It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the Licensing Authority can, if necessary, inspect it fully, as can other responsible authorities, with inspection rights under the Act.

Location

- 4.16 The Gambling Commission Guidance stipulates that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can.
- 4.17 In accordance with the Gambling Commission’s Guidance for Local Authorities, this Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 4.18 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, this policy statement will be updated accordingly. It should be noted that any such future policy will not preclude any application being made ~~and each application will be decided on its merits~~, with the onus upon the applicant showing how any potential concerns can be overcome.

4.19 Each case will be decided on its merits and will depend, to a large extent, on the type of gambling that it is proposed will be offered on the premises.

4.20 If an applicant can demonstrate appropriate measures to overcome concerns, that will be taken into account by the Council.

Duplication with other regulatory regimes

4.21 This authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including the statutory planning regime.

4.22 We emphasise that under section 210 of the Act this Licensing Authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building control.

4.23 The Planning Department are a Responsible Authority under this Act and have the opportunity to make representations should they desire so to do. The Licensing Authority will therefore consider relevant representations from the local planning authority about the effect of the grant of a premises licence on an extant planning permission where this relates to the licensing objectives, a Commission code of practice, or this Statement of Policy. This authority will also listen to, and consider carefully, any concerns about conditions that cannot be met by licensees due to planning restrictions, should such a situation arise. Otherwise the two regimes will be treated as completely separate.

Conditions

4.24 Any conditions attached to licences will be proportionate and will be:

- i) Relevant to the need to make the proposed building suitable as a gambling facility
- ii) Directly related to the premises and the type of licence applied for;
- iii) Fairly and reasonably related to the scale and type of premises: and
- iv) Reasonable in all other respects.

4.25 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult-only areas etc. There are specific comments made in this regard under each of the licence types below.

4.26 This policy acknowledges that there are conditions that the licensing authority cannot attach to premises licences:

- i) Any condition on the premises licence which makes it impossible to comply with an operating licence condition
- ii) Conditions relating to gaming machine categories, numbers, or method of operation
- iii) Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- iv) Conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

- 4.27 The Gambling Commission advises in its Guidance for local authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 4.28 This policy recognises that door supervisors at bingo or casino premises cannot be licensed by the Security Industry Authority (SIA). This Licensing Authority does not have specific requirements for door supervisors working at bingo or casino premises. Each case will be determined on its individual merits.
- 4.29 It is noted that for premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances or machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

CASINO PREMISES

- ~~4.29 This Licensing Authority has not passed a 'no casino' resolution, under Section 166 of the Gambling Act 2005, to prohibit casinos in the Borough at present, but is aware that it has the power to do so. The Council reserves its right to review this situation and may at some time in the future resolve not to permit casinos.~~
- 4.30 To date, the Licensing Authority has chosen not to pass a resolution under section 166 (5) of the Gambling Act to prohibit casinos in the Borough.
- 4.31 Should the Council choose to make such a resolution, this will be a resolution of full Council following considered debate and the reasons for making the resolution will be given.

BINGO PREMISES

- 4.32 Bingo is a class of equal chance gaming and **is** ~~will be~~ permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.
- 4.33 The holder of a Bingo Operating Licence will be able to provide any type of bingo game including cash and prize bingo. Where bingo is permitted in alcohol licensed and non-gambling premises, this must not become a predominant commercial activity, otherwise a bingo operating licence will be required.
- 4.34 Commercial bingo halls will require a bingo premises licence from the Council. Amusement arcades providing prize bingo will require a prize gaming permit from the Council.
- 4.35 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 4.36 The Licensing Authority recognises that there is no ban on children or young people having access to Bingo premises, that it is illegal for Under 18s to play or use Category B and C machines and that they cannot be employed in providing facilities for gambling or bingo premises. In any event, children under 16 cannot be employed in any capacity at a time when facilities for playing bingo are being offered. 16 and 17 year olds may be employed while bingo is taking place provided the activities on which they are employed are not connected with the gaming or gaming machines. Where children aged 16 and 17 are employed in bingo premises, the Licensing Authority would expect to see sufficient controls restricting access to Category B and C machines.
- 4.37 A limited number of gaming machines may also be made available at Bingo licensed premises. **A list of categories of gaming machines is on page 32.** Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:
- i) All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
 - ii) Only adults are admitted to the area where these machines are located
 - iii) Access to the area where the machines are located is supervised
 - iv) The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and

- v) At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 4.38 With regard to segregation of Category B and C machines from Category D machines, there is a requirement that there must be clear segregation between these types of machine so that children do not have access to Category B or C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.

Members' Clubs and Commercial Clubs

- 4.39 Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a Bingo Operators Licence and the corresponding Personal and Premises licences.
- 4.40 With regard to turnover, where the Licensing Authority is suspicious that a licensee or club exceeds the turnover in the required 7-day period, the Licensing Authority will inform the Gambling Commission accordingly.
- 4.41 The Licensing Authority will take into account any additional guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

BETTING PREMISES

- 4.42 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Anyone wishing to operate a betting office will require a Betting Premises Licence from the Council.
- 4.43 Children and young persons will not be able to enter premises with a betting premises licence.
- 4.44 Betting premises will be able to provide a limited number of gaming machines and some betting machines. **A table showing the number and category of gaming machines permitted in betting premises is on page 33.**
- 4.45 The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so

taking into account, among other things: the size of the premises, the level of management, supervision and ability of staff to monitor the use of machines especially where children and young or vulnerable people are concerned; and the number of counter positions available for person-to-person transactions.

TRACKS

- 4.46 Only one Premises Licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 4.47 Track operators are not required to hold an 'Operators Licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 4.48 Although there will primarily be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 4.49 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.
- 4.50 This Licensing Authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

- 4.51 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 4.52 Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.
- 4.53 Where appropriate, in order for the Licensing Authority to gain a proper understanding of what it is being asked to licence, applicants will be asked to:
- i) Provide a detailed plan of the grounds indicating where the betting is to take place and the location of the race track;
 - ii) In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
 - iii) Evidence measures taken to ensure the third Licensing Objective will be complied with;
 - iv) Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and Licensing Authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose.
 - v) Define the areas of the track that will be used by on course operators visiting the track on race days.
 - vi) Define any temporary structures erected on the track for providing facilities for betting.
 - vii) Define the location of any gaming machines (if any).
- 4.54 Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

Betting Machines at Tracks

- 4.55 In addition to the comments above at betting machines in betting premises, similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in

relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. The licensing authority may consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

- 4.56 This licensing authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Condition on rules being displayed

- 4.57 In line with guidance from the Gambling Commission the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

ADULT GAMING CENTRES

- 4.58 As no one under the age of 18 is permitted to enter an Adult Gaming Centre, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Applicants are recommended to consider this Licensing Objective very carefully when applying for an Adult Gaming Centre.
- 4.59 As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.
- 4.60 Where the Adult Gaming Centre is situated in a complex such as an airport, shopping area or motorway services station, the Licensing Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access.
- 4.61 **A table showing the number and category of gaming machines permitted in adult gaming centres is on page 33.**

FAMILY ENTERTAINMENT CENTRES (FECs)

4.62 There are two classes of family entertainment Centres. Licensed FECs provide Category C and D machines and require a Premises Licence. Unlicensed FECs provide Category D machines only and are regulated through FEC Gaming Machine Permits.

(Licensed) Family Entertainment Centres

4.63 Children and young persons may enter FECs but are not permitted to play Category C machines. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to ensure that there will be sufficient measures to prevent under 18 year olds having access to the adult only gaming machine areas.

4.64 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self barring schemes, provision of information leaflets/help line numbers for organizations such as GamCare as appropriate measures.

4.65 With regard to segregation of Category C machines in licensed FECs, there is a requirement that there must be clear segregation between the two types of machine so that children do not have access to Category C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.

4.66 Applicants are recommended to visit the Gambling Commission's web site in order to familiarise themselves with the conditions applicable to these premises.

Statement of Principles

4.67 As these premises are open to children and young persons, the Licensing Authority will wish to see additional information, such as:

- i) A plan of the premises showing clear segregation of Category C and D machines.
- ii) Clear Notices excluding under 18 year olds from the designated areas where Category C machines are located;
- iii) Age Restriction Policy;

- iv) Evidence of ongoing staff training in administering all aspects of age restriction policy;
- v) Solid physical barriers separating adult gaming area from the main floor, i.e. the barriers to be a min. of 1 metre in height from the floor;
- vi) Completion of a training programme in social awareness in respect of gambling
- vii) Evidence of compliance with BACTA's Code of Practice

TRAVELLING FAIRS

- 4.68 Travelling fairs do not require any permit to provide gaming machines but must comply with the legal requirements on the way the machine operates. They may provide an unlimited number of Category D gaming machines and it will fall to the licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 4.69 The Licensing Authority will consider whether or not a travelling fair falls within the statutory definition of a travelling fair and recognises that the 27 day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with the neighbouring authorities to ensure that land that crosses joint boundaries is monitored so that the statutory limits are not exceeded.

REVIEW OF PREMISES LICENCES

- ~~4.69 A Premises Licence may be reviewed by the Licensing Authority itself following an application or on its own volition. An Interested Party or Responsible Authority may also request that a premises licence be reviewed.~~
- 4.70 A premises licence may be reviewed by the Licensing Authority of its own volition or following receipt of an application for a review, which is essentially a request by a third party to the Licensing Authority to review a particular licence.
- 4.71 However, it is for the Licensing Authority to decide whether or not the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the Authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous requests for review.

4.72 The review will be:

- i) In accordance with any relevant Code of Practice issued by the Gambling Commission
- ii) In accordance with any relevant Guidance issued by the Gambling Commission
- iii) Reasonably consistent with the Licensing Objectives and
- iv) In accordance with the Licensing Policy Statement.

4.73 Licensing Authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. **An application for review must be granted, unless it decides to reject the application in accordance with the act.**

4.74 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate **with regard to the licensing objectives**. This can extend to a review of a class of licences where it considers particular issues have arisen.

PART 5 GAMING PERMITS

INTRODUCTION TO PERMITS

- 5.1 Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.
- 5.2 The Licensing Authority is responsible for issuing the following permits:
- Family Entertainment Centre (FEC) Gaming Permits
 - Club Gaming Permits and Club Machine Permits
 - Alcohol –licensed Premises Gaming Machine Permits
 - Prize Gaming permits
- 5.3 The Licensing Authority may only grant or reject an application for a permit and cannot impose or attach any conditions.
- 5.4 There are different considerations to be taken into account when considering the different types of permit applications. Please refer to the relevant parts of this below.

GAMING MACHINES

- 5.5 A gaming machine can cover all types of gambling activity, which can take place on a machine, including betting on virtual events. A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of chance imparted by the action of the machine would cause it to be a gaming machine.
- 5.6 Where the Licensing Authority is uncertain of whether or not a machine is a gaming machine as defined under the Act, it will seek the advice of the Gambling Commission.
- 5.7 There are four classes of gaming machines: Categories A, B, C and D, with category B further divided in sub-categories B1, B2, B3, B3A and B4. The table below sets out the current maximum stakes and prizes that apply to each category:

CATEGORIES OF GAMING MACHINES

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D*	-	-
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

* Category D machines with a 10p stake are entitled to offer prizes of up to £5 in cash, or up to £5 in cash and £3 in non-monetary prizes. Category D machines with a 30p stake can offer £8 in non-monetary prizes only.

- 5.8 The Gambling Act also prescribes the maximum number and category of gaming machines that are permitted in each type of gambling premises. This includes premises with permit entitlements, as well as licensed premises (see table on page 33):

NUMBER OF GAMING MACHINES BY PREMISES TYPE

TYPE	GAMING TABLES (MINIMUM)	GAMING MACHINES
REGIONAL CASINO	40	25 GAMING MACHINES CATEGORY A TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM OF 1,250 MACHINES
LARGE CASINO	1	5 GAMING MACHINES CATEGORY B TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM OF 150 MACHINES
SMALL CASINO	1	2 GAMING MACHINES CATEGORY B TO D FOR EACH TABLE AVAILABLE FOR USE MAXIMUM 80 MACHINES
BINGO PREMISES	N/A	20% 8 GAMING MACHINES CATEGORY B3, B3A AND B4 UNLIMITED MACHINES CATEGORY C UNLIMITED CATEGORY D MACHINES
BETTING PREMISES	N/A	4 GAMING MACHINES CATEGORY B2 TO D
TRACK BETTING PREMISES WHERE POOL BETTING LICENCE HELD	N/A	4 GAMING MACHINES CATEGORY B2 TO D
ADULT GAMING CENTRE	N/A	20% 4-GAMING MACHINES CATEGORY B3 TO D UNLIMITED CATEGORY C UNLIMITED CATEGORY D
FAMILY ENTERTAINMENT CENTRE WITH OPERATING LICENCE	N/A	UNLIMITED GAMING MACHINES CATEGORY C TO D
FAMILY ENTERTAINMENT CENTRE WITH GAMING PERMIT	N/A	UNLIMITED GAMING MACHINES CATEGORY D
MEMBERS CLUB PREMISES	N/A	3 GAMING MACHINES CATEGORY B4 TO D
ON SALES ALCOHOL LICENSED PREMISES WITHOUT FOOD RESTRICTION	N/A	2 GAMING MACHINES CATEGORY C TO D BY NOTIFICATION UNLIMITED CATEGORY C TO D WITH ALCOHOL PREMISES GAMING PERMIT

(UNLICENSED) FEC GAMING MACHINE PERMITS

- 5.9 Where Premises do not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that under section 238 the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 5.10 The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. In preparing that statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 5.11 A FEC gaming machine permit may be granted only satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. The Licensing Authority may grant or refuse a permit but cannot impose conditions upon the grant of a permit. Therefore the licensing authority will wish to be satisfied as to the applicant's suitability before granting a permit. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued.

Statement of Principles

- 5.12 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include background checks on staff, training for staff in dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 5.13 Applicants will be expected to demonstrate:
- i) A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
 - ii) That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
 - iii) That staff are trained to have a full understanding of the maximum stakes and prizes; and
 - iv) An awareness of local school holiday times and how to identify the local education office should truants be identified.
- 5.14 Compliance with the Code of Practice in relation to FECs, issued by BACTA, will be taken by the Licensing Authority as evidence that (apart

from the criteria relating to criminal convictions) the applicant has met the above.

5.15 As these premises are open to children and young persons, the Licensing Authority will require additional information when an applicant applies for this Permit, as follows:

- (i) A plan of the premises to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers and indicating the location of appropriate clear and prominent notices and barriers, such Notices to state:
 - (a) That no unaccompanied child will be permitted to remain on the premises if that person is required by law to attend school;
 - (b) Highlighting the need to play responsibly;
 - (c) The number and location of Category D machines;
- (ii) Evidence of staff training by way of a Premises Log Book, covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises;
- (iii) The amount of space around gaming machines to prevent jostling of players or intimidation.
- (iv) Location and supervision of Automated Teller Machines
- (v) Proof of Age scheme
- (vi) Evidence that the applicant has complied with Health and Safety and Fire Safety legislation.
- (vii) Details of opening hours.
- (viii) Details of external appearance of premises
- (ix) Numbers of staff employed
- (x) Insurance documents and any other such information the Licensing Authority will from time to time require.
- (xi) Any other policies or procedures in place to protect children from harm.

5.16 The above statement of principles will apply in relation to initial applications only and not to renewals.

5.17 With regard to renewals, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

5.18 Where an applicant fails to comply with the above requirements, the Licensing Authority may refuse the application. Where there is such a refusal, the Licensing Authority will notify the applicant of its intention to refuse and the reasons for the refusal. The applicant will then have an

opportunity to make representations orally, in writing or both and will have a right of appeal against any decision made.

- 5.19 Where the Permit has been granted the Licensing Authority will issue the permit as soon as is reasonably practicable and in any event in line with the Regulations issued by the Secretary of State. The permit will then remain in effect for 10 years unless surrendered or lapsed.
- 5.20 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues and will also consider an applicant's suitability for FEC permits and factors taken into account will include the Applicant's criminal record and previous history and experience of running similar premises, if any.

CLUB GAMING AND CLUB MACHINES PERMITS

- 5.21 Members Clubs and Miners' Welfare Institutes (not Commercial Clubs) may apply for a Club Gaming Permit or Club Gaming Machine Permit.

5.22 Club Gaming Permit

Club gaming permits allow the premises to provide:

- i) Up to three machines of categories B, C or D
- ii) Equal chance gaming; and
- iii) Games of chance as set out in regulations.

5.23 Club Gaming Machine Permit

A club gaming machine permit will enable the premises to provide up to three machines of categories B, C or D.

- 5.24 Before granting a permit, the Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for members' clubs contained in sections 266 and 267 of the Gambling Act and may grant the permit provided the majority of members are over 18.

- 5.25 The Licensing Authority recognises that there is a 'fast track' procedure for premises holding a Club Premises Certificate under the Licensing Act 2003 and that there is no opportunity for objections to be made by the Commission or the Police and the grounds upon which the Licensing Authority can refuse a permit are reduced.

ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS

- 5.26 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises licence holders merely need to notify the Licensing Authority that they intend to

exercise their automatic entitlement to gaming machines in their premises.

- 5.27 Under section 284 the Licensing Authority can remove the automatic authorisation in respect of any particular premises if:
- i) Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
 - ii) Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
 - iii) The premises are mainly used for gaming; or
 - iv) An offence under the Gambling Act has been committed on the premises.
- 5.28 Should it necessary to issue section 284 order, the licence-holder will be given at least twenty-one days' notice of the intention to make the order, and consider any representations which might be made. The authority will hold a hearing if the licensee requests it.
- 5.29 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "such matters as they think relevant."

Statement of Principles

- 5.30 This Licensing Authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to the adult-only gaming machines.
- 5.31 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 5.32 The Licensing Authority will usually expect holders of gaming machine permits to ensure that the gaming machines are sited in accordance

with any relevant code of practice issued by the Gambling Commission and to ensure that they can be adequately supervised whilst in use.

- 5.33 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an adult entertainment centre premises licence.
- 5.34 It should be noted that the Licensing Authority is empowered to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than those restricting the number or category of machines these) cannot be attached.
- 5.35 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 5.36 Notifications and applications for two or three machines will be determined by Licensing Officers. Those for four to five machines will be determined by Licensing Officers' in consultation with the Chairman of the Licensing (Licensing Act 2003) Committee. Applications for more than five machines will be referred to a Licensing sub-Committee for determination.

PRIZE GAMING PERMITS

- 5.37 The licensing authority may prepare a statement of principles which they propose to apply in exercising their functions which may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.
- 5.38 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs providing none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.
- 5.39 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 5.40 Applicant should set out the types of gaming they are intending to offer and should be able to demonstrate:

- i) That they understand the limits to stakes and prizes that are set out in Regulations; and
- ii) That the gaming offered is within the law.

5.41 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing authority cannot attach conditions. The conditions in the Act are:

- i) The limits on participation fees, as set out in regulations, must be complied with
- ii) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- iii) The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- iv) Participation in the gaming must not entitle the player to take part in any other gambling.

5.42 Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no premises licence or club gaming permit under the Gambling Act 2005 may be in force.

Statement of Principles

5.43 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to unequal chances prize gaming.

5.44 A plan must accompany applications indicating where, and what type, of prize gaming is to be provided.

5.45 The grounds for decision making as regards renewals are the same as for initial applications.

5.46 Where the Licensing Authority intends to refuse the application for a permit, it will notify the applicant of its intention to refuse it stating the reasons and offering the applicant an opportunity to make representations orally or in writing or both.

PART 6 TEMPORARY AND OCCASIONAL USE NOTICES

TEMPORARY USE NOTICES (TUN)

- 6.1 A Temporary Use Notice (“TUN”) is a notice which authorises a person or an organisation to conduct gaming activities for a temporary period of time at a particular premises. However, a TUN may only be granted if the premises user is already in possession of a relevant Operating Licence. The London Borough of Hillingdon is bound by a number of statutory limits as regards TUNs. Section 218 of the Act refers to a ‘set of premises’ and provides that a set of premises is the subject of a temporary use notice if ‘any part’ of the premises is the subject of a TUN.
- 6.2 The reference to a ‘set of premises’ prevents one large premise from having a temporary use notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.
- 6.3 The Licensing Authority will decide what constitutes a ‘set of premises’ where Temporary Use Notices are received relating to the same building / site.
- 6.4 In considering whether a place falls within the definition of a ‘set of premises’ the Licensing Authority will look at the ownership/occupation and control of the premises and the Licensing Authority will consider whether different units are in fact different ‘sets of premises’. An example would be a large exhibition centre with different exhibition halls. This would be considered properly as one premise and would not be granted a temporary use notice for each of its exhibition halls.
- 6.5 A TUN must be lodged with the Licensing Authority not less than three (3) months and one (1) day before the day on which the gambling event will begin. The person who is giving the TUN must ensure that the notice and copies are with the Licensing Authority and named responsible authorities within seven (7) days of the date of the notice.
- 6.6 On receipt of a TUN the Licensing Authority will send a written acknowledgement as soon as is reasonably practicable and this may be by way of e-mail.
- 6.7 If no objections are made within 14 days of the date of the temporary use notice, the Licensing Authority will grant and return the notice with an endorsement of validity.
- 6.8 If objections are received within 14 days of the date of notice, a hearing will be held to consider the issue of a TUN. Those who raise objections may offer modifications to the notice that will resolve their

objections. If all participants to a hearing agree that a hearing is unnecessary, the hearing may be dispensed with.

- 6.9 The Licensing Authority may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. The Licensing Authority and other bodies to which the notice is copied may give notice of objection but they must have regard to the Licensing Objectives and where there are such objections, they must give a notice of objection to the person who gave the TUN, such notice will be copied to the Licensing Authority.

OCCASIONAL USE NOTICES (OUN)

- 6.7 An Occasional Use Notice may be used where there is betting on a track on 8 days or less in a calendar year. The OUN dispenses with the need for a Betting Premises Licence for a track and the Licensing Authority will maintain a register of all applications.
- 6.8 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 6.9 Tracks are normally thought of as permanent race courses, but the meaning of track not only covers horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place. Although the track need not be a permanent fixture, land used temporarily as a track providing races or sporting events may qualify.

PART 7 REGISTRATION OF SMALL SOCIETY LOTTERIES

DEFINITION OF SMALL SOCIETY LOTTERY

- 7.1 The Gambling Act repeals the Lotteries and Amusements Act 1976. The Licensing Authority will register and administer smaller non-commercial lotteries. Promoting or facilitating a lottery will fall within 2 categories:
- i) Licensed Lotteries (requiring an Operating Licence from the Gambling Commission); and
 - ii) Exempt Lotteries (registered by the Licensing Authority)
- 7.2 Exempt Lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:
- i) Small Society Lotteries;
 - ii) Incidental Non-Commercial Lotteries;
 - iii) Private Lotteries:
 - iv) Private Society Lottery
 - v) Work Lottery
 - vi) Residents' Lottery
 - vii) Customer Lotteries
- 7.3 Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category, and therefore registered by the Licensing Authority, because their proceeds are below specified levels. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information setting out financial limits will be made available on the Council's website or by contacting the Licensing Authority.

THE LICENSING AND REGISTRATION SCHEME

- 7.4 Applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.
- 7.5 Lotteries will be regulated through a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, Codes of Practice and any Guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt

lotteries, the Licensing Authority will have due regard to the Gambling Commission's Guidance.

- 7.6 The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of his registration. In addition, the Licensing Authority will make available for inspection by the public, the financial statements/returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the Licensing Authority will notify the Gambling Commission in writing, copying this to the Society concerned.
- 7.7 The Licensing Authority will refuse applications for registration if in the previous five years, either an Operating Licence held by the applicant for registration has been revoked, or an application for an Operating Licence made by the applicant for registration has been refused. Where the Licensing Authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 7.8 The Licensing Authority may refuse an application for registration if in their opinion:
- i) The applicant is not a non-commercial society;
 - ii) A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - iii) Information provided in or with the application for registration is false or misleading.
- 7.9 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the Society.
- 7.10 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion. In any event, the Licensing Authority will make available on its website its procedures on how it handles representations.
- 7.11 The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the

opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

7.12 Where a Society employs an external lottery manager, they will need to satisfy themselves that they hold an Operator's Licence issued by the Gambling Commission and the Licensing Authority will expect this to be verified by the Society.

7.13 The Licensing Authority will expect registered small society lottery societies to renew their registrations each year. It is not the responsibility of the Licensing Authority to issue reminders to small society lottery societies to advise of renewals. Registrations will expire if they are not renewed in a timely way. Cancellation of a small society lottery will be confirmed in writing by the Licensing Authority.

PART 8 DECISION MAKING

THE LICENSING COMMITTEE

- 8.1 The Licensing Committee will consist of at least 10 Members. Licensing Sub-committees consisting of ~~5~~ 3 Committee Members will hear any relevant representations from Responsible Authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on the applicant's behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.
- 8.2 Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- ~~8.3~~ The Licensing Committee will not place themselves in situations where their honesty or integrity may be questioned, will make decisions on their merit and will reach their own conclusions on the issues laid before them and will act in accordance with those conclusions taking into account as necessary and proper, the views of others.
- 8.4 Licensing Authorities must have regard to the licensing objectives when exercising their functions in relations to premises licences, temporary use notices and some permits.
- 8.5 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to being reasonably consistent with the Licensing Objectives; the Human Rights Act 1998; any relevant code of practice under Section 24 of the Gambling Act 2005; any relevant guidance issued by the Commission under Section 25 of the Gambling Act 2005; and this Statement of Policy. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.

DELEGATION OF DECISION MAKING RESPONSIBILITIES

- 8.5 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 8.6 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, decisions on all

licensing matters will be taken in accordance with an approved scheme of delegation, as attached at Appendix D.

- 8.7 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to Council Officers.

PART 9

APPENDIX A

SCHEDULE OF CONSULTEES TO DRAFT POLICY

PERSONS OR BODIES
REPRESENTING THE
INTERESTS OF THOSE
CARRYING ON GAMBLING
BUSINESSES IN THE BOROUGH

Association of British Bookmakers
Association of Licensed Multiple Retailers
British Amusement Catering Association
British Beer and Pub Association
National Casino Industry Forum
British Holiday & Home Parks Association
Greyhound Board of Great Britain
British Institute of Innkeeping
Business in Sport and Leisure Ltd
Casino Operators Association, UK
Community Trade Union
Federation of Licensed Victuallers
Gamcare
AGE UK
Hillingdon Chamber of Commerce
Remote Gambling Association
Responsibility in Gambling Trust
Rugby Football Union
The Bingo Association
The Football Association
The Lotteries Council
The Working Men's Club & Institute Union

PERSONS OR BODIES
REPRESENTING THE
INTERESTS OF THOSE WHO
ARE LIKELY TO BE AFFECTED
BY THE EXERCISE OF THE
AUTHORITY'S FUNCTIONS

All Elected (Ward) Councillors,
London Borough of Hillingdon
Council

All "Responsible Authorities" as defined under the Gambling Act (see Appendix C for list and contact details)

Alcoholics Anonymous (AA)
Gamblers Anonymous
Government Organisations: (LGA, ODPM, LACORS)
Hillingdon Action Group for Addiction Management (HAGAM)
Hillingdon Association of Voluntary Services
Hillingdon's Children and Young People's Partnership Board (CYPSPB)
Hillingdon Community and Police Consultative Group
Hillingdon Drug and Alcohol Services
Hillingdon Law Centre
Hillingdon Mind
Hillingdon NHS
Hillingdon Salvation Army
Hillingdon Samaritans
Hillingdon Youth Offending Service
Hillingdon Tenants and Residents Associations
Hillingdon Federation of Community Associations & similar bodies
Local Licensing Solicitors in Hillingdon
Local Strategic Partnership
Uxbridge Initiative
Uxbridge Magistrates Court

NEIGHBOURING LONDON,
COUNTY AND DISTRICT
COUNCILS

London Boroughs of: Brent, Ealing, Hammersmith & Fulham, Harrow and Hounslow

(West London Alliance Members)

And:

Slough Borough Council

Spelthorne Borough Council

Hertfordshire County Council

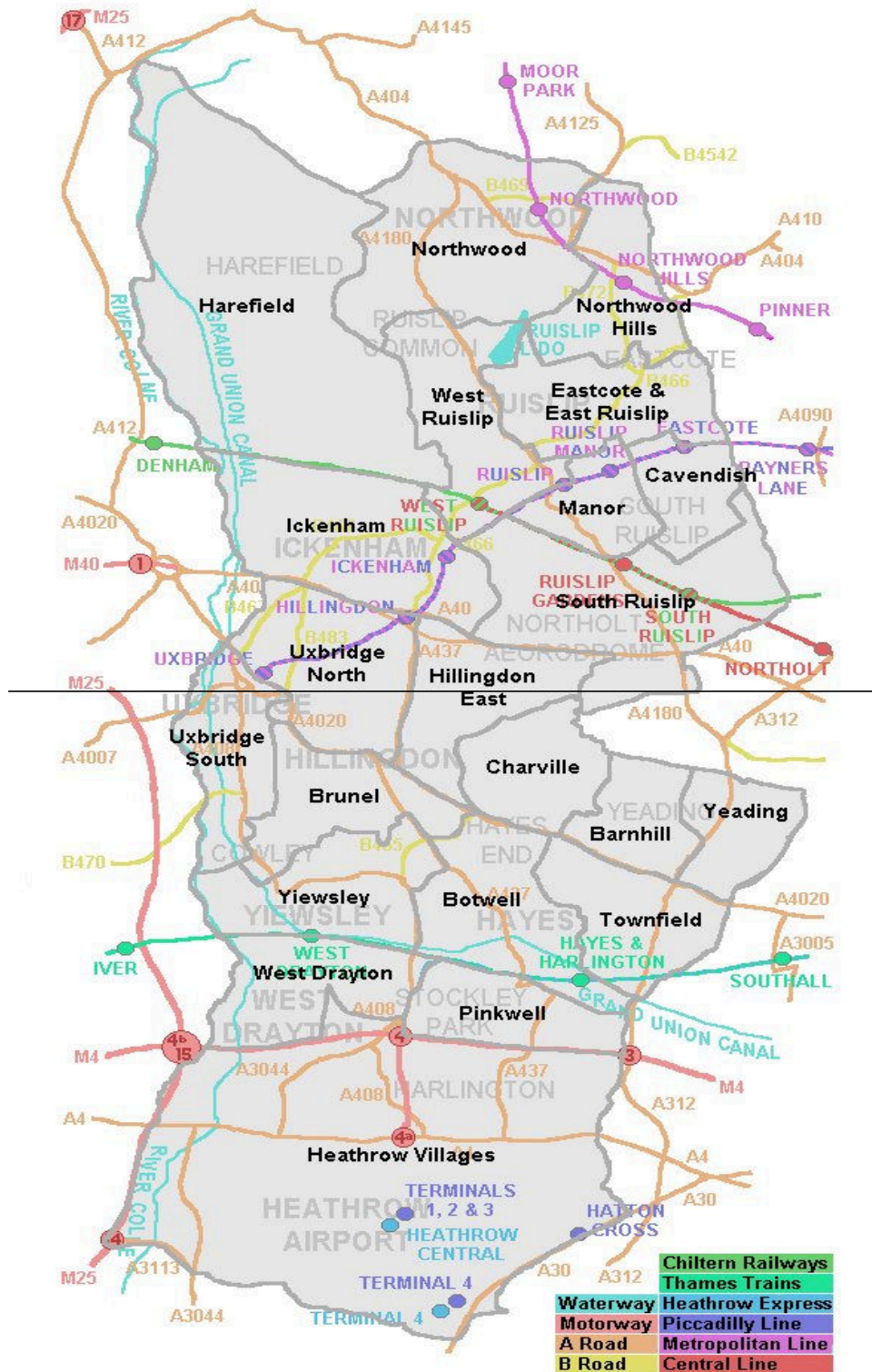
South Bucks District Council

Three Rivers District Council

Note: This list was not intended to be exhaustive. Comments and observations were welcomed from anyone affected by this policy.

APPENDIX B

MAP OF HILLINGDON



APPENDIX C

SCHEDULE OF RESPONSIBLE AUTHORITIES

For the purposes of the Act, Responsible Authorities are public bodies that must be notified of all applications and who are entitled to make representation in relation to Premises

Hillingdon Licensing Authority
c/o The Licensing Service Manager
Environment & Consumer
Protection
Residents Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

The Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Chief Officer of Police, London
Borough of Hillingdon
c/o Licensing Sergeant
Northwood Police Station
2 Murray Road
Northwood
HA6 2YW

Chief Officer of Police, Heathrow
Metropolitan Police,
East Ramp
London Heathrow Airport
TW6 2DG

London Fire and Emergency
Planning Authority
Hillingdon Fire Safety Team
Hillingdon Fire Station
Uxbridge Road
Hillingdon
UB10 0PH

Hillingdon Planning Authority
c/o The Development Control
Manager
Head of Planning and Enforcement
Department of Planning &
Transportation
Residents Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

Authority for Pollution & Harm to
Human Health
c/o Team Manager Environmental
Protection Unit
Environmental Protection Unit
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

Local Safeguarding Children Board
c/o Director of Children Services
London Borough of Hillingdon
Civic Centre, Uxbridge
UB8 1UW

HM Revenue & Customs
National Registration Unit
Betting and Gambling Department
Portcullis House
21 India Street
Glasgow
G2 4PZ

Authorities for Vessels:
Navigation Authority
The Enforcement Agency
The British Waterways Board
The Secretary of State

APPENDIX D

SUMMARY OF DELEGATION OF POWERS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Section 284 Order to revoke the automatic entitlement for 2 gaming machine notifications		X	

QUESTIONS FROM MEMBERS

9.1 QUESTION SUBMITTED BY COUNCILLOR CURLING TO THE CABINET MEMBER FOR SOCIAL SERVICES, HEALTH & HOUSING – COUNCILLOR CORTHORNE

Is the Cabinet Member considering any measures to tackle rogue landlords, and thus ensure that tenants of private landlords are also recognised as 'Hillingdon's residents' and therefore put first by this council?

9.2 QUESTION SUBMITTED BY COUNCILLOR DHILLON TO THE CABINET MEMBER FOR PLANNING, TRANSPORTATION AND RECYCLING – COUNCILLOR BURROWS

Could the Cabinet Member please give council an update on how the task force set up to tackle 'beds in sheds' has been performing?

9.3 QUESTION SUBMITTED BY COUNCILLOR ALLEN TO THE CABINET MEMBER FOR PLANNING, TRANSPORTATION AND RECYCLING – COUNCILLOR BURROWS

Central Avenue and surrounding roads suffer due to the lack of proper drainage having to rely on gullies to take away excess rain which they cannot do. This year we have experienced more flooding than is the usual case and we are told that more rain is forecast for the foreseeable future. At present we are supposed to receive a once a year cleansing of all these gullies to alleviate this problem, though this seldom takes place. Often it is left to residents or Councillors to request action. Could the Cabinet Member with responsibilities for environment issues, please inform Council if there are any plans to put in place a gulley cleansing programme fit for purpose in areas that have no adequate drainage?

9.4 QUESTION SUBMITTED BY COUNCILLOR DUNCAN TO THE LEADER OF THE COUNCIL, COUNCILLOR PUDDIFOOT

As Central Government reduces funding for Council Tax, while housing and welfare benefits are set to decrease, can the Leader tell us what plans are being made to support the poorest and most vulnerable residents in the most deprived parts of the borough?

9.5 QUESTION SUBMITTED BY COUNCILLOR GARDNER TO THE LEADER OF THE COUNCIL, COUNCILLOR PUDDIFOOT

Can the Leader assure this Council that we will continue to meet the needs of our residents by providing translation and interpretation services as and when necessary? This service is essential considering the dramatic changes to benefits that will be occurring within the next months.

9.6 QUESTION SUBMITTED BY COUNCILLOR BLISS TO THE CABINET MEMBER FOR PLANNING, TRANSPORTATION AND RECYCLING – COUNCILLOR BURROWS

In April 2010 a feasibility study was undertaken to look at placing a raised table in Yeading Gardens at the junction with Yeading Lane after a number of accidents had occurred. However, despite almost 3 years passing, the residents are still waiting for this work to be done. This had supposedly been agreed by Councillor Burrows on 31 October 2011 and was just waiting for formal approval of the funding. Could the Cabinet Member tell me when this raised table will finally be installed?

9.7 QUESTION SUBMITTED BY COUNCILLOR MAJOR TO THE CABINET MEMBER FOR SOCIAL SERVICES, HEALTH & HOUSING – COUNCILLOR CORTHORNE

The recent health consultation ‘Shaping a Healthy Future’ seems to rely heavily on the integration of health and social care services for the delivery of the ‘out of hospital’ strategies. Is the Council prepared to invest in the social care elements of this in the form of a full endorsement and provision of budget allocations setting out how social services and health could deliver the necessary integrated services?

9.8 QUESTION SUBMITTED BY COUNCILLOR JARJUSSEY TO THE CABINET MEMBER FOR SOCIAL SERVICES, HEALTH & HOUSING – COUNCILLOR CORTHORNE

Could the Cabinet Member for Social Services, Health and Housing provide an update on any new developments at the Hayes Walk-In Centre, as well as on the expected expansion of services following the acquisition of the old Post Office by NHS Hillingdon ?

MOTIONS

10.1 MOTION FROM COUNCILLOR EAST

This Council abhors the fact that around 360,000 children in London continue to fall into a 'working poverty trap' because their parents are paid less than required to fund the basic costs of living in London and therefore commits to working with the Living Wage Foundation and Citizens UK to become a fully accredited London Living Wage Employer.

In doing so the Council calls upon the Leader of the Council to:

- a) implement a review of Hillingdon Council's procurement, contract and best value policies to ensure that, as far as possible within UK and EU law, the London Living Wage, at the level set by the GLA's Living Wage Unit, is the minimum paid by Hillingdon Council and by its contractors;
- b) seek commitments from Hillingdon's partners in the Local Strategic Partnership to pay no less than the London Living Wage.

10.2 MOTION FROM COUNCILLOR ALLEN

As most Members are aware through day to day contact with residents, many are suffering from real hardship often struggling to put food on the table. Close families and friends, neighbours, charitable organisations, religious groups of all denominations are all doing their best to help those in need even though, in many cases, their own funds are limited.

It is not just the homeless that are going without a proper meal, it is whole families. The fact that many children are going to bed hungry and going to school on an empty stomach, should be of concern to us all.

Food Banks set up across the Borough offer a lifeline to those in greatest need but it is often the case that for many that need this help, they do not know how to gain access. For the above reason, the Council will:

- (a) use its vast network of business and partnership to seek support by way of donations to food banks.
- (b) ensure that information on access arrangements are advertised throughout the Borough.

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