

Public Document Pack  
**HINCKLEY & BOSWORTH  
BOROUGH COUNCIL**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**AGENDA FOR THE  
MEETING OF THE COUNCIL  
TO BE HELD ON  
MONDAY, 28 JANUARY 2013  
at 6.30 pm**

# Fire Evacuation Procedures

## Council Chamber

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Date: 18 January 2013

Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Dear Sir/Madam

I hereby summon you to attend a meeting of the Hinckley & Bosworth Borough Council in the Council Chamber, Council Offices, Hinckley at these offices on **MONDAY, 28 JANUARY 2013** at **6.30 pm**

Yours faithfully

Miss RK Owen  
Democratic Services Officer

### AGENDA

1. Apologies
2. To confirm the minutes of the meetings held on 13 November and 18 December 2012 (Pages 1 - 12)
3. To be advised of any additional items of business which the Mayor decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. To receive verbally from Members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.
5. To receive such communications as the Mayor may decide to lay before the Council.
6. To receive petitions in accordance with the Council's Petitions' Scheme.
7. To deal with questions under Council Procedure Rule number 11.1.
8. To receive the Leader of the Council's Position Statement.
9. To receive for information only the minutes of the Scrutiny Commission meeting held on 8 November & 20 December 2012 (Pages 13 - 20)
10. City Deals (Pages 21 - 24)

A copy of the bids is available on the website as part of the agenda documentation or in the Members' Room.

11. DECC Local Authority Funding Competition (Pages 25 - 28)
12. Tenancy Strategy & Tenancy Policy (Pages 29 - 44)
13. Financial Regulations Review (Pages 45 - 48)

A copy of the amended Constitution is available on the website as part of the agenda documentation or in the Members' Room.

14. Asbestos Treatment Supplementary Budget (Pages 49 - 52)
15. Localisation of Council Tax Support (Pages 53 - 320)
16. Leicestershire Revenue & Benefits Partnership budget 2013/14 (Pages 321 - 324)
17. Treasury Management Strategy Amendment (Pages 325 - 328)
18. Shared ICT Partnership with Melton Borough Council (Pages 329 - 332)
19. To consider the following motions, notice of which have been received in accordance with Council Procedure Rules 13.1 and 13.2:-

Motion received from Councillor W J Crooks and seconded by Councillor M Mullaney:

That this Council agrees to amend the Policy for Licensing for Music & Entertainment, to contain a clause that the Council consults Parish Councils who could be affected by the granting of any new licenses.

# Agenda Item 2

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

13 NOVEMBER 2012 AT 6.30 PM

PRESENT: MR MB CARTWRIGHT - MAYOR  
MRS L HODGKINS – DEPUTY MAYOR

Mr RG Allen, Mr PR Batty, Mr Bessant, Mr DC Bill MBE, Mr SL Bray, Mrs R Camamile, Mrs T Chastney, Mr DS Cope, Mr WJ Crooks, Mr DM Gould, Mr PAS Hall, Mrs WA Hall, Mr MS Hulbert, Mr DW Inman, Mr C Ladkin, Mr MR Lay, Mr KWP Lynch, Mr R Mayne, Mr JS Moore, Mr K Morrell, Mr MT Mullaney, Mr K Nichols, Mr LJP O'Shea, Mrs J Richards, Mrs H Smith, Mrs S Sprason, Mr BE Sutton, Miss DM Taylor, Mr R Ward and Ms BM Witherford

Officers in attendance: Steve Atkinson, Rebecca Ball, Katherine Bennett, Adam Bottomley, Bill Cullen, Malcolm Evans, Simon D Jones, Rebecca Owen and Rob Parkinson

### 257 APOLOGIES

Apologies for absence were submitted on behalf of Councillors Bannister and Boothby.

### 258 MINUTES OF THE MEETING HELD ON 18 SEPTEMBER

On the motion of Councillor Nichols, seconded by Councillor Crooks, it was

RESOLVED – the minutes of the meeting held on 18 September be confirmed and signed by the Mayor.

### 259 ADDITIONAL ITEMS OF BUSINESS TAKEN AS MATTERS OF URGENCY

The Mayor drew attention to the report “Fairtrade Borough Resolution” which had been omitted from the agenda in error, and the “Council Offices Relocation” report which he had agreed to take as a late item due to the need to make a decision by 13 December.

At this juncture, the Mayor invited two pupils from Westfield Junior School to present pictures to the Council.

### 260 DECLARATIONS OF INTEREST

No interests were declared.

### 261 MAYORS' COMMUNICATIONS

The Mayor reported on a successful visit of a delegation from Grand Quevilly to Hinckley in September and thanked the Deputy Mayor for deputising for him at the Remembrance Day Service in Groby. He also wished everyone a happy Diwali.

### 262 QUESTIONS RECEIVED IN ACCORDANCE WITH COUNCIL PROCEDURE RULE NUMBER 11.1

(a) Question from Councillor Sprason, addressed to Councillor Bray

“Will the leader ensure that this authority will deal with the sale of cars on the roadside that is an issue at Leicester Road, Field Head, Markfield?”

The Borough Council is able to take up the powers under the Miscellaneous Provisions Act 1982 and introduce a street banning order. Blaby District Council has recently done this – by making a particular street a “Prohibited Street”, under the Act street trading can be banned and action can be taken against individuals who break the ban (i.e. offering vehicles for sale on the highway). So will the leader commit his full support and resources for the immediate introduction of a “Prohibited Street” at Leicester Road, Field Head, Markfield”.

Response from Councillor Gould

I am advised that Blaby District Council introduced a “consented streets” policy under the Local Government Miscellaneous Provisions Act 1982, rather than “prohibited streets” to address issues relating to problems arising from mobile food vendors trading across their district in a similar manner to the controls this authority has used for Hinckley Town Centre. Consents streets allow trading following the issue of an annual consent from the Council and apply conditions for controlling the number, trades and operations of the vendor. Blaby District Council advise that the issue of car sales on the streets was not part of their decision making process for the introduction of this policy. They also have not used this against persons selling cars on the highway due to concerns over the effectiveness of enforcement.

Officers from this Council have sought advice from other authorities across the country as to using this approach and could find none that had actually used it. The County Council has been promoting this approach whilst stating that solutions under appropriate legislation that they enforce are too expensive for them to consider. The implementation of Traffic Regulation Orders controlling the parking of vehicles would address this issue and others residents’ concerns relating to the parking of vehicles at Markfield. Enforcement is against the registered keeper of the vehicle rather than seeking to identify the seller of the vehicle. Your officers and other agencies have sought to identify these sellers with limited success. Implementation of legislation which can be considered dubious in its effectiveness for this type of problem would be a cost to this authority with no guarantee of resolving the particular problem at Markfield. Notwithstanding this I have requested that this problem is reviewed through the Endeavour multi agency team, the Highways Forum and that through joint working the most appropriate legislation is encouraged to be used to resolve the concerns of residents. We will also issue publicity warning of the risks of purchasing vehicles off the highway following consultation with Leicestershire County Council Trading Standards.

(b) Question from Councillor Bessant, addressed to Councillor Bray

With the Authority due to vacate this building in matter of weeks, would the leader of the council please update members on progress in securing the £3M capital receipt from the site as promised to residents of this Borough in his recent Medium Term Financial Strategy?

Response from Councillor Lynch

I thank Cllr Bessant for asking this question. As he is fully aware the MTFs is not a promise it is a strategy which like all good strategies has to be flexible and which is rolled forward and updated with every annual budget or change in circumstances.

The original concept for potential development on the Argents Mead park could have realised the sort of returns originally suggested on developments around the periphery of the site including possible joint developments with the vicarage site (which is no longer possible) and the other sites that did not meet with general approval such as development on a part of the Mount Rd. car park.

This administration has been consistent in considering acceptable a suitable development on a part of the site that is sympathetic to the Mead and areas around the current offices. Having consulted on options for a retirement village that would in principal have met this requirement, the current depressed economic climate has meant that the responses to the tender invitation were poor and none of the responses would have delivered an acceptable capital receipt for the Council.

We have reacted very quickly in considering the option of building a new leisure centre on this site and the option appraisal which is contained in the report to be considered by Council under Agenda Item 10 supports that proposal. This will mean that the Leisure Centre, which will embrace the green areas of the Mead, will remain in the Town Centre and the footfall will continue to support businesses in Hinckley and thereby ensure the continued vibrancy of the town centre. This option will also generate a capital receipt of up to £2.2million towards the funding of the new Leisure Centre from the sale of the existing site. I will also point out to Councillor Bessant that funding for the new leisure centre has been fully considered and budgetary provision has been made to deliver a realistic and affordable facility, unlike the fanciful and ill formed proposal of the previous Conservative administration.

(c) Question from Councillor Bessant, addressed to Councillor Bray

Would the lead member for planning please update Members on progress of the Barwell SUE and when he expects the full application to come forward to planning committee, and what his best guess is for ground to be broken on this development?

Response from Councillor Bray

I can confirm good progress is being made in bringing together the technical requirements and identifying the community infrastructure proposals for the Barwell SUE planning application. The target date for consideration of the application by Planning Committee is March 2013. I am informed by the Developer that, subject to approval in March 2013, the first phases of the development would start early 2014, with the first houses being completed later that year.

## 263 LEADER OF THE COUNCIL'S POSITION STATEMENT

In his position statement, the Leader of the Council referred to the items on the agenda for the meeting, lobbying the Government on planning issues, the new Control Centre at MIRA, Supporting People in Leicestershire and the Hinckley Hub. He also mentioned the number of financial issues on which the Government had yet to make announcements.

## 264 MINUTES OF THE SCRUTINY COMMISSION MEETINGS HELD ON 23 AUGUST AND 27 SEPTEMBER 2012

In presenting the minutes of the Scrutiny Commission meetings on 23 August and 27 September 2012, the Chairman of the Commission highlighted the success of bringing the Housing Repairs service in-house as evidenced in the report reviewing the first six

months. He expressed the Commission's concerns regarding the dangers of door step lenders, and concern for the most vulnerable communities in light of the welfare reforms.

## 265 LEISURE CENTRE PROCUREMENT

A report was presented which gave the outcome of an options review for the delivery of a new leisure centre. Some Members expressed concern regarding keeping the main leisure facility in the town centre and the resulting difficulty of access for those from outside of Hinckley. In response it was noted that an earlier survey showed the site adjacent to the A47 which had been suggested at one point had not been a preferred site by those living in Barwell and Earl Shilton, and that there was no public transport to the site anyway.

The advantages of working with a development and management partner were discussed. It was noted that at this stage there was no need to agree an option including exact siting, size of leisure centre, facilities provided, and that this would come back to a future meeting.

On the motion of Councillor Bray, seconded by Councillor Bill, it was unanimously

### RESOLVED –

- (i) the building of a new facility to replace the existing leisure centre be approved;
- (ii) the development of a new leisure centre on Argents Mead, subject to maintaining and enhancing the green space and adding value to the park, be approved;
- (iii) the facility options, procurement process and timescales as set out in sections 5 and 6 of the report be approved.

## 266 COUNCIL OFFICES RELOCATION

Members were updated on the position regarding moving to the Hinckley Hub site and project budget changes. In response to questions Members were assured that there was a contingency for demolition costs of the current offices, there would be vast benefits of co-location for partners and the public, and that the building would not be pink.

It was moved by Councillor Lynch, seconded by Councillor Bray and

### RESOLVED –

- (i) a capital budget of £250,000 be vired from the existing demolition project to the Council Office Relocation project;
- (ii) approved earmarked capital reserves of £338,571 be allocated to the Council Office Relocation project to fund the changes specified;
- (iii) the current revised estimate of costs for the demolition of Argents Mead and move to the Hinckley Hub be noted;
- (iv) the additional budget required to cover the cost of dilapidation works for the offices at Florence House from earmarked reserves be noted.



267 LOCAL DEMOCRACY EVENT

Members were informed of the success of the local democracy event and activities the children had completed were highlighted around the Chamber and a copy of the qualities expected of a Councillor according to the young people was provided to each Member.

Those Members who had attended the event reported an enjoyable and valuable afternoon and felt that this should be an annual event. It was suggested, however, that secondary school age children should be targeted. Members supported the views of the children and the values that they had put forward as being expected of Members. It was suggested that a plaque be mounted outside the new Chamber with the values on as a reminder to Members and a lasting legacy of the children's work.

Rebecca Ball and Sherrilee Fahey were thanked for their work on the event and with young people across the Borough. On the motion of Councillor Hulbert, seconded by Councillor Bray, it was

RESOLVED – further local democracy work with children and young people be supported, and the running of a similar event annually during Local Democracy Week be supported.

268 FAIRTRADE BOROUGH RESOLUTION

A report was presented which provided an update on the Borough's Fairtrade status and progress over the past five years. It was moved by Councillor Gould, seconded by Councillor Hulbert and

RESOLVED – the following statement be approved:

- (i) Hinckley & Bosworth Borough Council supports Fairtrade and is aware of how buying Fairtrade products is a strategy for poverty alleviation and sustainable development and creating opportunities for producers and workers who have been economically disadvantaged or marginalised by the conventional trading system;
- (ii) Hinckley & Bosworth Borough Council supports the Hinckley & Bosworth Fairtrade Forum Steering Group in its 2012 application to renew the Borough's Fairtrade Borough status;
- (iii) a lead Councillor continues to be appointed as Fairtrade Champion for the Borough and, as such, be a partner in the Fairtrade Forum Steering Group to ensure Borough Council commitment in the future;
- (iv) the promotion and use of Fairtrade refreshments be supported on all council premises including meeting rooms, community buildings, vending machines, the Hinckley Hub, franchises and included in HBBC procurement procedures;
- (v) awareness of our Fairtrade Borough status among residents and the business community is increased through signage at prominent positions across the Borough, in publications, websites and at events where the Council has an input.

269 GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES

Members received a report following the consultation exercise on the Gambling Policy (Statement of Principles), which had received no adverse comments or objections. On the motion of Councillor Gould, seconded by Councillor Nichols, it was

RESOLVED – the Gambling Policy (Statement of Principles) be adopted.

270 ANNUAL REVIEW OF THE CONSTITUTION

The report, which had been deferred at the previous meeting for consideration of some aspects by the Planning Committee, was presented to Members. It was noted that Planning Committee's recommendation was appended to the report. Members discussed the content of the report and the recommended changes to the Constitution and were unable to agree on the majority of the points relating to the Planning Committee except for the start date for speakers registering being the date of agenda publication. All Members did not support the recommended change that a Member be prevented from voting if they had not heard the full debate, as they felt that during a long debate many Members had to have a comfort break, but this did not result in them missing an important part of the debate. They felt that to set out a proportion of time that they could be absent would be difficult to monitor and manage. It was suggested that the Ethical Governance & Personnel Committee be asked to consider whether any changes to the Planning Committee processes were required.

It was therefore

RESOLVED – the following changes to the Constitution be approved:

- (i) changes in paragraph 3.3 of the report relating to the service area of Environmental Health;
- (ii) changes in paragraph 3.4 of the report relating to the service area of Planning;
- (iii) the following changes to Part 4 – Procedure Rules, as set out in paragraph 3.5 of the report:
  - (a) only members of the Licensing Committee may sit on a panel for a Licensing Hearing;
  - (b) Paragraph 20 – only recording a Member leaving the meeting if they are absent for a decision;
  - (c) Speakers at Planning Committee will not be able to register to speak until the agenda has been published (ie a week before the meeting);
  - (d) changes resulting from the new Executive arrangements including replacing the Forward Plan with a rolling work programme of Executive decisions;
- (iv) updated role profiles in line with current responsibilities;
- (v) changes in paragraph 3.6 of the report regarding post titles and formatting;

- (vi) changes in paragraph 3.7 of the report regarding the remit of the Overview & Scrutiny function.

271 MOTIONS RECEIVED IN ACCORDANCE WITH COUNCIL PROCEDURE RULES 13.1 AND 13.2

- (a) Motion received from Councillor Bray, seconded by Councillor Gould

“This Council wishes the Secretary of State for Communities and Local Government to note the following:

Hinckley & Bosworth Borough Council believes that local people, through their democratically elected local authorities, are the most suitable judges of what development is acceptable in an area and the suitable level of contributions that developers need to make;

Hinckley & Bosworth Borough Council opposes:

- The Secretary of State's proposals for the Planning Inspectorate to have powers to override agreements between Councils and developers over the number of affordable housing units allocated to planning applications.
- The Secretary of State's proposals for planning permission – currently required for extensions of more than three or four metres from the rear wall of any home – to only be needed for those reaching beyond 8m for detached homes and 6m for others
- The Secretary of State's intention to override Section 106 of the Town and Country Planning Act of 1990 which will allow developers to immediately appeal to the Planning Inspectorate over the allocation of affordable housing units in any scheme they maybe concerned with.
- The Secretary of State's proposals for the Planning Inspectorate to take planning powers away from local authorities which he deems to be slow or of making poor quality planning decisions in determining applications.

This Council notes that the current Coalition government did listen earlier in the year over concerns regarding the National Planning Policy Framework and revised its plans accordingly, so urges the Government to listen to the concerns being expressed by the cross-party LGA;

This council however welcomes other parts of the stimulus package including:

- £300 million to provide 15,000 affordable homes across the country
- An extension of the refurbishment programme to bring an extra 5,000 empty homes back into use
- £280m for FirstBuy, the shared equity scheme to give a futher 16,500 first time buyers the chance to own their own homes
- Up to £10bn of guarantees to housing associations, property management companies and developers which will be able to use the guarantees to secure lower borrowing costs. This will lead to hundreds of thousands of extra rental homes being built.

This council also notes:

- the record of the previous Labour government on providing affordable social housing – and that during their 13 years in power, the social housing stock fell by another 420,000 houses, as Labour continually failed to build more homes than they were selling off. In the meantime, social housing waiting list soared to almost 1.8million, a rise of 741,000 families.
- the record of previous Conservative Governments where 1.1 million social homes were lost from the stock during the 18 years of Tory rule up to 1997, through a combination of Right to Buy sales and a failure to invest in

replacements. When the Major government left office more than 1 million families were on social housing waiting lists.

This council resolves to formally write to the Secretary of State for Communities and Local Government, outlining this council's opposition to the plans."

Whilst in support of the majority of the motion, some Members felt they could not support it due to the politicisation of the matter.

Councillor Lay left the meeting at 8.58pm.

Councillor Bray along with sever other Councillors stood to request that voting on the original motion be recorded. The vote was recorded as follows:

Councillors Bill, Bray, Cartwright, Cope, Crooks, Gould, Mrs Hall, Mr Hall, Hodgkins, Hulbert, Inman, Lynch, Mayne, Mullaney, Nichols, Taylor and Witherford voted FOR the motion (17);

Councillors Allen, Batty, Bessant, Camamile, Chastney, Ladkin, Moore, Morrell, O'Shea, Richards, Smith, Sprason, Sutton and Ward abstained from voting.

It was therefore declared CARRIED and

RESOLVED – the motion be approved.

- (b) Motion received from Councillor Gould and seconded by Councillor Nichols

"This Council asks our Chief Executive to write to the Chancellor of the Exchequer, George Osborne, and urge him to support the national e-petition of over a 100,000 signatures to abandon the unfair beer duty escalator. Introduced by the last government in 2008, this tax unfairly increases duty by 2% above inflation annually and today beer is taxed at a staggering 40%. This excessive tax year on year penalises those who work in the local pub industry and has a detrimental effect on employment, tourism and community cohesion. This e-petition is only the 12<sup>th</sup> out of over 16,000 submitted to have ever reached the 100,000 mark, thus sparking a Parliamentary debate, showing the strength of feeling both locally and nationally."

Discussion ensued regarding sensible drinking, public houses as community centres and rural public houses.

Councillor Gould along with five other Members requested that voting on the motion be recorded. The vote was taken as follows:

Councillors Allen, Bessant, Bill, Bray, Camamile, Cartwright, Chastney, Cope, Crooks, Gould, Mrs Hall, Mr Hall, Hodgkins, Hulbert, Inman, Lynch, Morrell, Mullaney, Nichols, Sprason, Sutton, Taylor and Witherford voted FOR the motion (23);

Councillors Batty and Moore voted AGAINST the motion (2);

Councillors Ladkin, Mayne, O'Shea, Richards, Smith and Ward abstained from voting.

It was therefore declared CARRIED and

RESOLVED – the motion be approved.

- (c) Motion received from Councillor Crooks and seconded by Councillor Mullaney

“The Council acknowledges from the Parish Councils bordering the River Sence, their concerns regarding a possible increase in flood risk to their areas from new development within the catchment area. The Council requests that the Environment Agency and all relevant planning authorities ensure that all developments within the River Sence catchment are built in accordance with Government guidance on Sustainable Urban Drainage Systems to minimise this perceived risk, and that the environment agency takes an overall view of these developments to ensure the existing drainage systems are able to cope given the recent increase in flooding”.

RESOLVED – the motion be approved.

272 EXCLUSION OF PUBLIC AND PRESS

On the motion of Councillor Bray seconded by Councillor Bill, it was

RESOLVED – in accordance with section 100A(4) of the Local Government Act 1972, the public be excluded from the following item of business on the grounds that it involves the disclosure of exempt information as defined in paragraphs 3 and 10 of Part I of Schedule 12A of that Act.

273 EXTENSION OF TIME

Having reached almost 9.30pm and on the motion of Councillor Bray, seconded by Councillor Bill, it was

RESOLVED – the meeting be permitted to continue to the conclusion of all business in accordance with Council Procedure Rule 9.

274 DEVELOPMENT AGREEMENT FOR THE BUS STATION SITE

Council received a report regarding the development agreement for the bus station site in Hinckley. On the motion of Councillor Bray, seconded by Councillor Bill, it was

RESOLVED – the recommendation contained within the report be approved.

(The Meeting closed at 9.45 pm)

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MAYOR

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

18 DECEMBER 2012 AT 5.30 PM

PRESENT: MR MB CARTWRIGHT - MAYOR  
MRS L HODGKINS – DEPUTY MAYOR

Mr RG Allen, Mr JG Bannister, Mr PR Batty, Mr Bessant,  
Mr DC Bill MBE, Mr SL Bray, Mrs R Camamile, Mr DS Cope,  
Mr WJ Crooks, Mr DM Gould, Mr PAS Hall, Mrs WA Hall,  
Mr MS Hulbert, Mr DW Inman, Mr C Ladkin, Mr MR Lay,  
Mr KWP Lynch, Mr R Mayne, Mr JS Moore, Mr K Morrell,  
Mr MT Mullaney, Mr K Nichols, Mr LJP O'Shea, Mrs H Smith,  
Mrs S Sprason, Mr BE Sutton, Miss DM Taylor, Mr R Ward and  
Ms BM Witherford

Officers in attendance: Steve Atkinson, Malcolm Evans, Louisa Horton, Julie Kenny, Sanjiv Kohli and Rebecca Owen

303 APOLOGIES

Apologies were submitted on behalf of Councillors Boothby, Chastney and Richards.

304 DECLARATIONS OF INTEREST

No interests were declared at this stage.

305 HINCKLEY HUB - UPDATE ON PROGRESS AND GOVERNANCE

In presenting the update report on the situation regarding Hinckley Hub and the commencement of Stepnell as the new contractor, Councillor Lynch proposed an additional recommendation as follows:

“Members thank the Senior Officers and our development partners MRP Developments Ltd for ensuring the financial protection of the Council and its council tax payers in their preparation of the contractual agreement and for the speedy and professional way in which they have handled the transfer of the contract to Stepnells”.

This proposal was seconded by Councillor Bray.

During discussion, Members asked whether the agreement that was made with Hallam to use local sub-contractors would be carried forward, and in response Members were assured that it had been.

Councillor Lynch, seconded by Councillor Bray, moved the recommendations and they, along with seven further Members, stood to request a recorded vote on the recommendations as amended.

Councillors Allen, Bannister, Batty, Bessant, Bill, Bray, Camamile, Cartwright, Cope, Crooks, Gould, A Hall, P Hall, Hodgkins, Hulbert, Inman, Ladkin, Lay, Lynch, Mayne, Moore, Morrell, Mullaney, Nichols, O'Shea, Smith, Sprason, Sutton, Taylor, Ward and Witherford voted FOR the recommendations as amended (31).

It was therefore declared CARRIED and unanimously

RESOLVED –

- (i) the content of the report be noted and the outcome achieved be welcomed;
- (ii) Senior Officers and our development partners MRP Developments Ltd be thanked for ensuring the financial protection of the Council and its council tax payers in their preparation of the contractual agreement and for the speedy and professional way in which they have handled the transfer of the contract to Stepnells.

306 SALE OF LAND ADJACENT TO STOKE ROAD

Members received an update on the current position regarding the sale of land adjacent to Stoke Road (former Boys' Club) to Morris Homes. In presenting the report, Councillor Lynch, seconded by Councillor Bray, proposed the following additional recommendation:

“Members confirm their support for retention of the Brodick Rd Park, welcome the progress in its planting as a community woodland and thank all the residents and especially the school children for their help with planting the trees”.

Discussion ensued regarding the history of the site on Stoke Road and Brodick Park before that.

Councillor Lynch plus six other Members stood to request a recorded vote. The vote was taken as follows:

Councillors Bannister, Bill, Bray, Cartwright, Cope, Crooks, Gould, A Hall, P Hall, Hodgkins, Hulbert, Inman, Lynch, Mayne, Mullaney, Nichols, Taylor and Witherford voted FOR the recommendations as amended (18);

Councillors Allen, Batty, Bessant, Camamile, Ladkin, Lay, Moore, Morrell, O'Shea, Smith, Sprason, Sutton and Ward voted AGAINST the recommendations (13).

It was moved by Councillor Lynch, seconded by Councillor Bray and

RESOLVED –

- (i) the sale of land adjacent to Stoke Road be agreed for the sum of £2.3m and on the terms set out in paragraph 3.16 of the report;
- (ii) the retention of the Brodick Road Park be supported;
- (iii) the progress in the planting of Brodick Road Park as a community woodland be welcomed;
- (iv) all the residents and especially the school children be thanked for their help with planting the trees.

(The Meeting closed at 7.00 pm)

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MAYOR



## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### SCRUTINY COMMISSION

8 NOVEMBER 2012 AT 7.00 PM

PRESENT: Mr MR Lay - Chairman  
Mr PAS Hall and Mr C Ladkin – Vice-Chairman

Mr PR Batty, Mrs WA Hall, Mrs L Hodgkins, Mr MS Hulbert, Mr DW Inman, Mr R Mayne (for Mr K Nichols), Mr JS Moore (for Mr Bessant), Mr K Morrell and Mrs S Sprason

Officers in attendance: Steve Atkinson, Adam Bottomley, Bill Cullen, Simon D Jones, Sanjiv Kohli, Rebecca Owen and Simon Wood

#### 244 APOLOGIES AND SUBSTITUTIONS

Apologies were submitted on behalf of Councillors Bessant and Nichols, with Councillor Moore substituting for Councillor Bessant and Councillor Mayne substituting for Councillor Nichols in accordance with Council Procedure Rule 4.3.

#### 245 MINUTES

On the motion of Councillor Morrell, seconded by Councillor Hall, it was

RESOLVED – the minutes of the meeting held on 27 September 2012 were confirmed and signed by the Chairman.

#### 246 DECLARATIONS OF INTEREST

No interests were declared at this stage.

#### 247 QUESTIONS

In accordance with Council Procedure Rule 10, the following question had been asked at the previous meeting but was carried forward as a response could not be provided at that time.

Question received from Councillor Batty:

“Could we please have full disclosure on the information pertaining to the sale of land at the former Stoke Road Boys’ Club? Particularly, can we please have the final net figures in respect of the capital receipt to include discounts, re-imbursement of fees or reductions, for ground abnormalities?”

Response provided following the meeting:

Please find below the details of the negotiated land sale with Morris Homes as requested.

1. The total purchase price agreed with Morris Homes is £2.3 million
2. A deposit of 10% has been paid so this reduces the amount remaining to £2,070,000.00
3. On completion (i.e. when we sell the land) we will then receive £931,500.00 (45% of the purchase price, less the deposit)

4. Then twelve months after completion the remaining monies will be paid over (£1,238,500.00)
5. In the legal agreement there is a longstop date of the 30th April 2012 for the payment of the balance following completion. As this has not completed this payment has not been made as the agreement is not in place. The monies are therefore now due on the 3rd January 2013, which is the date after which the decision cannot be judicially reviewed.

Morris Homes have also committed to construct the adoptable access road at the beginning of the scheme working in close liaison with Richmond Primary school alongside a new pedestrian gate, double timer controlled vehicle gates and integration of right hand footpath to meet existing site footpath. Therefore no monies are due to be received by LCC as a result of these negotiations.

On the 16<sup>th</sup> December 2009 and subsequent to the sale negotiations an independent valuation of the site was instructed at a cost of £350. In addition to this it was negotiated that there will be no deductions for abnormal under the contract therefore the only sum to be deducted from the capital receipt would be the valuation fee.  
I hope this answers the question raised above.

Following consideration of this response it was

RESOLVED – a report be brought to the following meeting of the Commission.

#### 248 EAST MIDLANDS AMBULANCE SERVICE

Representatives of East Midlands Ambulance Service (EMAS) attended to present their proposals for new 'hubs', providing a historical context for the proposals including the label given to EMAS by the press of 'a failing organisation'. It was reported that although they had improved and attained some of their targets, they were well below the national standard in others, and relationships both internally and externally were poor. The intention was now to 'be the best' and it was hoped that the restructuring of the service would achieve that aspiration.

During presentation and in response to questions, the following points were raised by representatives of EMAS:

- A 5% improvement in response times would mean tens of thousands of additional patients receiving a service which met targets each year;
- Cover across the region would not be reduced and availability to respond to emergencies would be maximised under the new arrangements;
- Costs for EMAS would be reduced by approximately £0.5m per annum and any redundancies would not affect frontline staff, in fact it was anticipated that there would be approximately 18 new care staff;
- The number of hubs was still under consultation and consideration;
- The proposals for changes in the way the service operates were based on evidence gathered from the best performing services in the country.

Members expressed concern regarding the lack of hubs in the Hinckley & Bosworth area and whether the proposals would actually mean improvement for residents of the Borough.

Representatives of EMAS were thanked for their attendance and Members agreed to respond to the consultation both individually and as a Commission.

249 MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

On the motion of Councillor Moore seconded by Councillor Morrell, it was

RESOLVED – in accordance with section 100A(4) of the Local Government Act 1972, the public be excluded from the following item of business on the grounds that it involves the disclosure of exempt information as defined in paragraphs 9 and 10 of Part I of Schedule 12A of that Act.

250 DEVELOPMENT AGREEMENT FOR THE BUS STATION SITE

Members were updated on the position regarding the bus station site and were asked to support the recommendation to Council. It was therefore

RESOLVED – the recommendation to Council be supported.

251 RE-ADMITTANCE OF PUBLIC AND PRESS

Following the end of the previous item, members of the press and public were re-admitted to the meeting.

252 LEISURE CENTRE PROCUREMENT

Members were presented with a report regarding options for the delivery of a new leisure centre and were appraised of the ensuing process and timescales. It was explained that the existing facility was spacious, but some areas were underused, therefore a new leisure centre would be designed based upon the amount of usage each area received.

The importance of the new building being more efficient and also more environmentally friendly was discussed, and the potential for receiving funding or working with a development and management partner were considered. It was explained that options, costs, facilities etc would be part of the proposals in the tender process, and Members were also assured that grants would be sought where possible, but that there was not the same availability of them in the current economic and funding climate.

253 CONSULTATION ON BUS SUBSIDY REFORM

Members were presented with a proposed response to the Bus Subsidy Reform consultation. Members asked that the response to question 6 be strengthened and the importance of bus operator grants be emphasised.

RESOLVED – the requested amendments to the response be made and submitted.

254 SCRUTINY COMMISSION WORK PROGRAMME 2011-12

It was requested that a copy of the dementia review be sent to the Government with a letter of support for their appeal to help people with dementia.

RESOLVED – the abovementioned request be actioned.

255 FORWARD PLAN OF EXECUTIVE AND COUNCIL DECISIONS

The forward plan was noted.

256 ITEMS FOR INFORMATION ONLY (NOT FOR DEBATE)

(a) Affordable housing

Members were provided with a response to a question raised at the previous meeting with regard to affordable housing, including a query about the shortfall in affordable housing due to developers raising viability issues and not being able to provide the level of affordable housing prescribed in the policy. It was requested that a report be provided to a future meeting on the resulting likely shortfall.

(b) Barwell & Earl Shilton Scrutiny Group

A member of the Scrutiny group reported that further details of the sewage, transport and sustainability issues were still awaited.

(The Meeting closed at 9.28 pm)

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CHAIRMAN

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

SCRUTINY COMMISSION

20 DECEMBER 2012 AT 6.00 PM

PRESENT: Mr MR Lay - Chairman  
Mr PAS Hall and Mr C Ladkin – Vice-Chairman

Mr JG Bannister (for Mrs L Hodgkins), Mrs WA Hall, Mr MS Hulbert, Mr DW Inman,  
Mr JS Moore (for Mr PR Batty), Mr K Morrell and Mr K Nichols

Also in attendance: Councillor DC Bill MBE

Officers in attendance: Katherine Bennett, Valerie Bunting, Rachel Burgess, Bill Cullen,  
Edwina Grant, Louisa Horton, Rebecca Owen, Sally Smith and Sharon Stacey

317 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Batty, Bessant, Hodgkins  
and Sprason, with the following substitutions authorised in accordance with Council  
Procedure Rule 4.3:

Councillor Bannister for Councillor Hodgkins  
Councillor Moore for Councillor Batty.

It was also noted that Councillor Nichols would be arriving late.

318 MINUTES

It was

RESOLVED – the minutes of the meeting held on 8 November 2012 be  
approved and signed by the Chairman.

319 ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

The Chairman reported that he had agreed to accept an urgent item of business on the  
Council Tax base for local precepting authorities.

320 DECLARATIONS OF INTEREST

No interests were declared at this stage.

321 LOCAL STRATEGIC PARTNERSHIP PROGRESS REPORT

Members were informed of the progress and achievements of the Hinckley & Bosworth  
Local Strategic Partnership by the lead Borough councillor on the partnership, officers  
and partners. Many activities and schemes were presented including the work in the  
community houses and neighbourhoods, summer activities, the Youth Café, adult  
education, support groups and community day trips.

Councillor Nichols arrived at 6.15pm.

Members were pleased to see the improvement in the partnership since the early days  
and congratulated all staff involved on the successes.

322 COMMUNITY SAFETY PARTNERSHIP - UPDATE

Members received a presentation from Inspector Marc Simons and the Chief Officer (Housing, Community Safety & Partnerships) which updated on crime statistics and plans for restructuring within the local police. With regard to the statistics it was noted that targets for reduction of crime had been exceeded for most crimes, however theft from vehicles had increased. It was reported that the majority of thefts from vehicles were due to carelessness and people leaving valuable items, such as satellite navigation equipment, on view. Members were informed that the current challenges and threats were travelling criminals and the impact of reduced funding and resources.

Officers reported that Hinckley & Bosworth and Blaby District Community Safety Partnerships had informally merged which had reduced the number of meetings and assisted with providing continuous support to those who need it. The merged Partnership had received a good independent evaluation and was working well.

Inspector Simons reported that the move to a new policing structure would commence on 7 January and would revolve around ensuring that the number of officers available corresponded to the times of high demand. It was also intended that the same officer would continue to deal with a particular case until its conclusion to ensure continuity. A Police response unit would be based at the response hub in Braunstone. It was reported that there would be no change to the public facing service and that Hinckley Police Station would continue to be open from 9am to 9pm, and that there would be no decrease in visibility of officers on the beat – and in many areas the local officers would remain the same due to the good relationship they have already built with the community.

Concern was expressed regarding comments made by the new Police & Crime Commissioner in the press in relation to anti-social behaviour in Barwell. Inspector Simons confirmed that he had expressed the same concerns, but had no input into the statements of the Police & Crime Commissioner – it was, however, noted that he had been invited to visit Barwell Community House to view the work there and the improvements within the community.

Members endorsed the good work of the partnership and congratulated everyone involved.

323 COUNCIL TAX BASE FOR LOCAL PRECEPTING AUTHORITIES

The Scrutiny Commission was informed of financial arrangements for local precepting authorities in 2013/14. It was reported that parish councils would be able to raise their precept above 2% without the need for a referendum. Members were concerned with the new council tax system and that parish councils had been informed so late in the process. It was agreed that a full debate would be held at the next meeting of the Commission and that it would also be considered at the Parish Forum on 23 January.

324 AFFORDABLE HOUSING PROJECTIONS

Members were informed of the targets and thresholds for affordable housing across the Borough, the projected maximum delivery figure for affordable housing and the constraints around delivering this level of affordable housing such as the sites which fall below the threshold for delivery which would not contribute to the target. Officers reported that a projected shortfall of 3% was likely, resulting in a potential shortfall of 128 affordable properties in rural areas over the local plan period to 2026. It was, however, acknowledged that actions would be taken to minimise any shortfall over the plan period.

In discussing the Commuted Sums, there was concern that if developers were contributing the funding rather than providing the properties there could be a time limit on spending the funds which would be a time consuming process. There was also concern that the contribution would not be sufficient to provide the same number of properties as would be provided on site and would have to be provided within a reasonable distance of the development site to meet the needs of that neighbourhood.

It was suggested that updates on progress towards delivery of affordable housing be brought to the Commission.

325 SCRUTINY COMMISSION WORK PROGRAMME 2011-12

The work programme was noted, however it was reported that at the previous meeting of the Barwell & Earl Shilton Scrutiny Group officers had been asked to invite representatives of Leicestershire County Council's Highways Team to the next meeting and it was acknowledged that there was now an official route for doing so via the County Council's Chief Executive.

A Member also suggested including an item in the work programme about safety regarding children cycling to school and what could be done to encourage the schools to promote the wearing of cycle helmets by pupils.

(The Meeting closed at 7.44 pm)

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CHAIRMAN

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**COUNCIL – 28 JANUARY 2013**

**CITY DEALS**  
**REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY**  
**DIRECTION)**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**WARDS AFFECTED: ALL WARDS**

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1. **PURPOSE OF REPORT**

- 1.1 This report seeks to brief Members on the second wave of City Deals, to which Coventry and Warwickshire and Leicester and Leicestershire have been invited to make bids, along with their partner authorities. It outlines how the bids may involve a wider area and what such a bid may cover. It confirms the invitations to engage HBBC in the bids and the opportunities this may afford the area.
- 1.2 Copies of the Coventry and Warwickshire and Leicester and Leicestershire city Deals will be available in the Members room for reference.

2. **RECOMMENDATIONS**

- 2.1 That Council notes the invitation to be part of the Coventry and Leicester City Deals.
- 2.2 That Council endorses the expressions of interest to Government for the Coventry and Warwickshire City Deal and Leicester and Leicestershire City Deal.
- 2.3 That Council delegates authority to the Chief Executive, in consultation with the Leader, or their representatives, to negotiate on behalf of the authority details of the final 'City Deal(s)' and report back to Council in due course, should either or both Expressions of Interests be confirmed as successful in February 2013.

3. **BACKGROUND TO THE REPORT**

**The City Deal**

- 3.1 In 2011, the Government announced that it would promote a series of City Deals with the largest cities in the country, as part of a strategy of both promoting economic growth and devolving powers and resources locally.
- 3.2 Eight 'first wave' City Deals have now been agreed and signed. These involved a diversity of approaches, but all involve some form of devolution from Central Government in terms of powers and funding, as well as some form of clear contribution and commitment from local government and partners to economic growth.
- 3.3 A second wave of City Deals was launched on 29 October 2012. A total of 20 cities have been invited to apply through what is called a managed competitive process, to be assessed against five criteria. These five criteria are as follows:
- i. Contribution to Government Economic Strategy;
  - ii. Innovative focused proposal;
  - iii. Private Sector Leverage;
  - iv. Governance Arrangements; and,
  - v. Strong political commitment.

3.4 It is possible that all 20 City areas could be selected, but this is unlikely. Draft initial Expressions of Interest were requested by the end of November 2012, the final version on 15 January 2013 and a decision on the successful bidders will be announced week commencing 11 February 2013. The expectation is that the final City Deals will be signed by end of 2013. This is a very tight timescale, especially for the initial selection.

3.5 Initial expressions of interest were submitted to the Government at the end of November for both Coventry/Warwickshire and Leicester/Leicestershire City Deals, both of which embrace Hinckley and Bosworth. A summary of the key elements of both City Deals is set out below for information.

### 3.6 **Coventry and Warwickshire City Deal**

Early discussions have been held at a senior level with the Chief Executives and Leaders of the eight local authorities and the Managing Director and Chairman of the Local Enterprise Partnership. These discussions suggest a proposal may be developed around promotion of the area's advanced manufacturing and engineering clustering along a corridor stretching from Jaguar Land Rover at Gaydon, to the MIRA establishment in Hinckley and Bosworth Borough and the BMW engine plant at Hams Hall in North Warwickshire.

3.7 The emerging 'Big Idea' for the Coventry City Deal is "**re-engineering engineering**" in Coventry and Warwickshire and Hinckley and Bosworth.

3.8 The key components of the bid include:

- i. **Developing skills for advanced manufacturing and engineering growth (AME):** growing local apprenticeships; meeting skills shortages; creating opportunities for graduates; delivering skilled engineers to meet current and future needs of the sector; development of advanced manufacturing technology centre at Ansty.
- ii. **Access to Innovation:** co-ordination of innovative activities to increase Advanced Manufacturing Research and Development activity; develop a local dedicated Innovation Fund.
- iii. **Delivering Infrastructure for Advanced Manufacturing and Engineering Growth (AME):** develop a significant local Infrastructure Fund to deliver key development sites for AME business growth and inward investment; facilitate housing and generation schemes and improvements to our key road and rail corridors.

### 3.9 **Leicester and Leicestershire City Deal**

Key partners involved in this City Deal include: Leicester City, Leicestershire County Council, the seven Districts, the LLEP and other public agencies and stakeholder groups.

3.10 The key theme for the Leicester City Deal is "**Accelerating Prosperity**"

The key components of the bid include:

- **Strategic Infrastructure Plan** - a long term plan for the LLEP area setting out infrastructure projects prioritized by the scale of economic impact which will unlock development opportunities supporting economic growth.
- **Local Infrastructure Plan** – creation of a local fund in excess of £100M to invest in priority projects in the Strategic Infrastructure Plan. The fund would pool and align national and local sources of finance such as Growing Places Fund;

Strategic Transport funding; pooled business rates growth; local authority capital funds and Enterprise Zone business rates to lever in private investment.

- **Public Sector Land** - co-ordination of public sector land assets to facilitate land assembly on key employment sites and re-invest capital receipts.

### **Opportunities for Hinckley and Bosworth**

- 3.11 Both City Deals present significant opportunities for the Borough and align with the Council's key Corporate Objectives for regenerating the Borough and the Council's Economic Strategy for job growth.
- 3.12 At this stage, the Council has nothing to lose in participating, apart from a commitment of staff time. Indeed, there is much to gain if, as we hope, both bids are successful.
- 3.13 As timescales were tight for the initial expressions of interest, all Leaders and Chief Executives were invited to a meeting on the Coventry City Deal on Wednesday 21 November 2012, to give initial positions of the Council's support. The Council was represented by the Council's Deputy Leader and Deputy Chief Executive (Community Direction), who expressed positive support on behalf of the Council, which was endorsed subsequently by the Council's Executive. Similar support has been expressed for the Council's involvement in the Leicester and Leicestershire City Deal, although the political engagement of Districts in the process was at a much later stage.
- 3.14 The status of commitment at this stage is to the expression of interest. Whilst there will be an expectation of resource support, the shape and scale of this is yet to be worked up and determined and this will need to be subject of a separate report depending on the success of the final expression of interest to Government. For Districts, the commitments are based mainly on our ability to borrow against HRS 'headroom' (for those with their own housing stock) and pooled retained business rates; but not involving any commitment of New Homes Bonus.
- 3.15 This Council is well positioned with its partners in North Warwickshire to facilitate links between both City Deals as part of the West Leicestershire and North Warwickshire Cross Border Delivery Partnership, although, disappointingly, no reference to this is made in the Leicester/Leicestershire Expression of Interest.
- 3.16 It is clear, from the Chancellor's recent Autumn Statement and commitment to establishing a £50 billion national pot in support of the Heseltine Review recommendations on Economic Growth, that Local Enterprise Partnerships will be able to bid for further funds through the next Government Spending Round period. Indications are that areas which secure City Deal status will be best positioned to access these further funds; which makes a successful bid even more important.

### **4. FINANCIAL IMPLICATIONS [KB]**

- 4.1 There are no direct financial implications at this point. The Council will be required to review any budgetary or funding implications following the result of this expression of interest.

### **5. LEGAL IMPLICATIONS [AB]**

None raised directly by this report although the delivery body linked to any successful City Deal bid will need to be agreed between the relevant authorities.

6. **CORPORATE PLAN IMPLICATIONS**

The City Deal initiative will support the delivery of the Council's key Corporate aim of regenerating the Borough.

7. **CONSULTATION**

All Districts within Warwickshire and Leicestershire have been consulted on the emerging City Deal bids for Coventry and Warwickshire, and Leicester and Leicestershire.

8. **RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Not participating in City Deal bids could risk losing infrastructure improvement opportunities and employment and skills opportunities for the Borough.	Engaging in joint Local Authority Chief Executive Steering Groups on City Deals.  Supporting Expressions of Interest and development of detailed projects to support local economic initiatives.	SLB
Financial/resource impact on Council.	Ensuring Chief Executive or his representative is engaged in negotiations with City Deal partners and full reports on financial implications reported back to Council.	SLB

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

None for this report.

10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

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Background papers: None

Contact Officer: Bill Cullen – Deputy Chief Executive (Community Direction)  
Executive Member: Councillor Stuart Bray

**COUNCIL – 28 JANUARY 2013**

**DECC LOCAL AUTHORITY FUNDING COMPETITION  
REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY  
DIRECTION)**



Hinckley & Bosworth  
Borough Council

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**WARDS AFFECTED: ALL WARDS**

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1. **PURPOSE OF REPORT**

To inform members of the award by the Department of Energy and Climate Change (DECC) of £3,092,600 to the 7 District Councils of Leicestershire, plus Rutland for the Green Deal Pioneer Places Fund and the Fuel Poverty Fund. The funding allocated will need to be spent by 31<sup>st</sup> March 2013.

To seek endorsement for a supplementary income and expenditure budget for the amount of funding allocated by DECC.

2. **RECOMMENDATION**

That Council

- (i) Acknowledges the achievement of the private sector housing team in submitting an ambitious bid for funding to the DECC on behalf of the district councils of Leicestershire and Rutland and for being allocated £3,092,600.
- (ii) Endorses a supplementary income and expenditure budget for the value of the grant and the payments to partners. In addition, the Council will require an £380,000 expenditure budget for their element of the spend.
- (iii) Endorses that Hinckley and Bosworth Borough Council is the accountable body for the whole project.

3. **BACKGROUND TO THE REPORT**

An opportunity arose in November 2012 to submit a bid to the DECC for Green Deal Pioneer Places funding and to the Fuel Poverty fund. The Private Sector Housing team led on a bid for the 7 District councils of Leicestershire and Rutland and was successful in securing £3,092,600, the second highest award in the country.

The green deal fund is offered to support ambitious approaches to kick start local Green Deal activity in both the domestic and non-domestic sectors. Locally the funding will help to create construction work/jobs, help reduce fuel bills for low income and vulnerable households and reduce carbon emissions enabling the authorities to meet carbon reduction targets.

The fuel poverty fund is designed to reduce the extent of fuel poverty primarily through the provision of resources to support improvements to the thermal efficiency of dwellings amongst low income and vulnerable households.

The project across Leicestershire and Rutland local authorities aims to reduce the number of (low income, high cost/vulnerable) households in fuel poverty by providing energy efficiency measures which will reduce energy bills and improve thermal comfort, alongside fuel debt advice and assistance, and promote opportunities of the Green Deal (GD) to households and businesses:

- A) Low-cost energy efficiency improvements** (up to 880 households).
- B) Improving energy efficiency/safety of existing central heating systems** (up to 520 households)
- C) Boiler Replacement Scheme:** 80 (10/Local Authority area (LAA)) F/G-rated/un-repairable boilers.
- D) Citizens Advice Bureau (CAB) Money Matters (Debt Advice & Budgeting Education):** offered all households receiving financial assistance (4 project officers over 8 LAAs).
- E) Jam-Jar Account Scheme:** £150 for energy bills to 800 (100/LAA) households.
- F) Debt reduction payments to enable move from pre-payment meter:** for around 160 (20/LAA) households with debts over £500.
- G) Food Parcel Emergency Fuel Bill Fund:** providing £5 pre-payment meter top-up to 2000 (250/LAA) households.
- H) Emergency Fuel Provision:** oil/LPG to 240 (30/LAA) households.
- I) Install solar photovoltaic panels on homes:** providing free electricity to 400 (50/LAA) households.
- J) Monitoring & Evaluation** with University partner
- K) GD Assessment surveys provided by GD Advisers for:**
  - i) Households** (3000, 375/LAA)
  - ii) Businesses** (320, 40/LAA)
- L) Household GD Outreach Events:** promoting GD eligible measures (24, 3/LAA (1 at show home)).
- M) Business GD Outreach Events:** promoting GD eligible measures accompanied by Carbon Trust energy efficiency/management workshop (8, 1 each LAA).
- N) Marketing/Communications:** mail-outs, case studies, leaflets.

#### 4. FINANCIAL IMPLICATIONS [KB]

4.1 A separate cost centre will be required for the operation of the grant. As the accountable body, Hinckley and Bosworth Borough Council will incur expenditure and claim all eligible spend for this and those of other partners. The work performed will be split between revenue and capital and should be coded based on the substance of the work performed.

4.2 Any grant monies held before the point in which they are paid over to partners will be shown as a creditor to reflect the obligation for repayment.

4.3 At the time of producing this report, the final grant offer letter for the funding had not been made available. Given the responsibilities of the Council as the administering body, the potential for claiming the internal costs of administering the fund will be investigated. If these cannot be reclaimed, a review of existing staff budgets will be required to ensure the process can be accommodated.

5. **LEGAL IMPLICATIONS (AB)**

As this project is at an early stage it is not yet possible to comment on the terms of the grant agreement document.

The grant application does indicate that some of the grant will be for the benefit of businesses. This is potentially State Aid, however the level of funding to any individual business through this fund will be well below the de minimis level of €200,000 (Approximately £160,000) over a three year period so it will not be necessary for any notification to be made to the European Commission.

6. **CORPORATE PLAN IMPLICATIONS**

Cleaner and greener: Reduce CO<sub>2</sub> emissions and save energy through installation of energy efficiency measures in both domestic and non domestic properties.

Thriving economy: Create jobs in the following areas, delivering energy efficiency measures, surveys and evaluation. The money saved on fuel costs will also be available to spend in the local economy.

Safer and healthier : By increasing energy efficiency in homes, the number of winter deaths and respiratory illness will decrease.

Strong and distinctive: Raises the profile of the Council as HBBC will be leading a practical and innovative project.

Decent, well managed affordable housing: The energy efficiency measures will be targeted towards properties with Category 1 excess cold hazards which fail the decent homes standard. These measures will help to remedy some of the deficiencies within the poorer privately rented stock. The savings made by the measures will increase funds available for rent.

7. **CONSULTATION**

None required at this stage

8. **RISK IMPLICATIONS**

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Failure to meet the required number of outcomes and spend will result in less money being claimed back from DECC	The finance not claimed will not have been spent so there is no risk to the Council.	Private Sector Housing Team

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

The funding is specifically aimed at vulnerable households, low income households and hard to heat homes which will include targeting rural areas especially those areas off gas where heating costs are more expensive.

10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

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Background papers: DECC submission which can be obtained by contacting Private Sector Housing

Contact Officer: Rosemary Leach 01455 255923

Executive Member: Councillor Gould



**COUNCIL – 8 JANUARY 2013**



Hinckley & Bosworth  
Borough Council

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**TENANCY STRATEGY AND TENANCY POLICY**  
**REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY**  
**DIRECTION)**

**WARDS AFFECTED: ALL WARDS**

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1. **PURPOSE OF REPORT**

- To inform Members of the requirement to produce a Tenancy Strategy and a Tenancy Policy;
- To introduce the draft Tenancy Strategy and Tenancy Policy attached as appendices A and B

2. **RECOMMENDATION**

- I. That Members approve the adoption of the Tenancy Strategy and Tenancy Policy;
- II. That Members note consultation for the Tenancy Strategy and Tenancy Policy has taken place with the Tenants Advisory Panel, applicants on the Council's Housing Register, and Registered Providers active in the Borough;
- III. That Members note that there is no change in Council policy with respect to Flexible Tenancies, and no existing Council stock will be converted to affordable rent.

3. **BACKGROUND TO THE REPORT**

- 3.1 The Localism Act, introduced in 2011, allows a number of new freedoms for Registered Providers. Included in this is:
- The ability for Registered Providers to charge affordable rent in certain circumstances;
  - The ability for Registered Providers to introduce flexible tenancies for a fixed term for all new tenants.
- 3.2 The Localism Act also introduces a new obligation for every Local Authority to publish a Tenancy Strategy. The latest date that the Tenancy Strategy can be introduced is January 2013. This sets the overarching matters that Registered Providers must have regard to when writing their own policies.
- 3.3 In addition, an important requirement of the Localism Act is that Registered Providers produce a "Tenancy Policy" setting out the organisation's policies. This is for any stock holding Local Authority and therefore includes Hinckley and Bosworth Borough Council. This is in addition to the Tenancy Strategy. The Tenancy Policy must give:
- a clear and transparent explanation of what decisions will affect the type of tenancy offered to applicants,
  - the conditions under which a flexible tenancy will or will not be renewed.
  - The rights of appeal against a non-renewal of tenancy.
- 3.4 Members have already considered some aspects of the Tenancy Strategy and Tenancy Policy. In particular, the approach to affordable rent was set at Council on 19<sup>th</sup> June 2012. A briefing note on flexible tenancies has also been presented to Members.

#### 4. THE TENANCY STRATEGY

- 4.1 The purpose of the Tenancy Strategy is to give guidance and information to Registered Providers of social housing. It must set out the broad objectives on the granting of tenancies to be taken into consideration by Registered Providers operating in the area.
- 4.2 Registered Providers have been granted more freedoms in the length and types of tenancy they are now able to grant. The Tenancy Strategy sets out the Local Authorities broad objectives on:
- The use of affordable rent in the Borough;
  - The use of flexible tenancies including
    - Length of tenancy for different client groups
    - Notice to leave
  - Homelessness duty
  - Stock disposals.
- 4.3 A joint consultation event for stakeholders active in the districts of Blaby District Council, Charnwood Borough Council, Harborough District Council, Hinckley and Bosworth Borough Council, Melton Borough Council and North West Leicestershire District Council, was hosted by North West Leicestershire District Council in November 2011. This included representatives from Registered Providers active in the Borough, Third Sector agencies and partners from Leicestershire County Council. The outcomes of this consultation event informed the recommendations set out in the Tenancy Strategy, which has been circulated to all Registered Providers owning or developing social housing in the Borough.
- 4.4 Consultation on the draft Tenancy Strategy and Tenancy Policy has also taken place with the Tenants Advisory Panel and with applicants on the Council's housing register. Twenty five responses were received from home seekers. The results of the responses are set out in appendix C.

#### 5. THE TENANCY POLICY

- 5.1 The Tenancy Policy sets out the approach the Borough Council will take in relation to its own stock. The key policies set out in this document are:
- The Council will not introduce flexible tenancies and will continue to offer lifetime tenancies to all its' tenants;
  - The Council will only use affordable rent for its' own stock where it is a condition of receiving grant from the Homes and Communities Agency.

#### 6 FINANCIAL IMPLICATIONS [KB]

- 6.1 The impact of affordable rents will potentially raise additional income for the Council as they will be set at a higher rate than current rent levels. In order to make this economically viable, this will only be performed where grant can be received from the Homes and Communities Agency. An appropriate bad debt provision will need to be forecast for all affordable rent to reflect the increase in levels and potential for non payment.

#### 7 LEGAL IMPLICATIONS [AB]

- 7.1 Contained within the body of the report.

## 8 CORPORATE PLAN IMPLICATIONS

- 8.1 The consideration of Affordable Rent and Discounted Sale housing supports the following aims of the Corporate Plan 2009 – 2014:
- Strong and distinctive communities
  - Decent, well managed & affordable housing

## 9 CONSULTATION

- 9.1 Consultation has taken place with stakeholders as set out in paragraphs 4.3 and 4.4. A questionnaire on the draft Tenancy Strategy and Tenancy Policy has been advertised to applicants on the Housing Register via the Choice Based Lettings website. The draft Tenancy Strategy and Tenancy Policy has also been circulated to members of the Tenants Advisory Panel, and Registered Providers who either develop or manage stock in the Borough.

## 10 RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
The retaining of lifetime tenancies will lead to a slower turnover of stock.	Ensure the supply of new affordable housing is maximised. Consider offering incentives to tenants who are underoccupying properties	Valerie Bunting
The continued provision of social rents will reduce the supply of new build properties.	Use of affordable rent for new build with Homes and Community Agency Grant. Consideration of affordable rent properties from Registered Providers.	Valerie Bunting

## 11. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 11.1 This report is concerned with ensuring that a supply of affordable housing is available in the Borough for people in the greatest need. This includes consideration of people from vulnerable groups, and those living in rural areas. The minimum tenancy length considers different client groups, and only recommends a relatively short tenancy (2 years) for people under 35 in exceptional circumstances. This reflects the greater mobility of this client group, and the higher rate of churn for younger tenants.

## 12. CORPORATE IMPLICATIONS

12.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications – None identified
  - Environmental implications – None identified
  - ICT implications – None identified
  - Asset Management implications – None identified
  - Human Resources implications – None identified
  - Planning Implications – None identified.
  - Voluntary Sector – None identified
- 

Background papers:   Appendix A: Tenancy Strategy  
                              Appendix B: Tenancy Policy  
                              Appendix C: Housing Register Consultation Responses

Contact Officer:       Valerie Bunting x5612

Executive Member:    Councillor Michael Mullaney.

# **HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

## **TENANCY STRATEGY**

### **1 THE REQUIREMENT FOR A TENANCY STRATEGY**

The Localism Act has introduced a requirement for every Local Authority to produce a Tenancy Strategy. The Strategy must be produced within 12 months of the relevant part of the Act coming into force, which at the latest is January 2013.

Registered Providers must have regard to Tenancy Strategies when they are producing their own policies.

### **2 THE PURPOSE OF THE TENANCY STRATEGY.**

The Tenancy Strategy is a document published by all Local Authorities as part of their strategic role for their area. It is an overarching strategy, meant to give guidance and information to Registered Providers of social housing.

The Tenancy Strategy must set out the broad objectives on the granting of tenancies to be taken into consideration by Registered Providers operating in the area. Registered Providers have been granted more freedoms in the length and types of tenancy they are now able to grant. The Tenancy Strategy sets out the Local Authorities broad objectives on the granting and reissuing of tenancies in their area.

The Tenancy Strategy is not a document that stands alone; it is in conformity with the Councils Homelessness Strategy and the Council's Allocations Policy. It also has regard to the policies for the supply of new affordable housing in the Borough set out in the Planning Local Development Framework documents, particularly the Core Strategy Development Plan Document, the Affordable Housing Supplementary Planning Document and the Rural Needs Supplementary Planning Document.

### **3 TENANCY POLICIES**

The detail of how these objectives will be achieved will be set out in the Registered Provider's own Tenancy Policy. All Registered Providers need to produce a Tenancy Policy, including Local Authorities who still own their own stock.

A companion document to this Tenancy Strategy is therefore Hinckley and Bosworth Borough Council's Tenancy Policy, which gives the detail on how the Council will respond to the issues in the Tenancy Strategy.

### **4 CONSULTATION**

A number of consultation exercises have been carried out to assist in the preparation of this document. Since many Registered Providers work across Leicestershire, a joint stakeholder event was carried out in December 2011 which included Registered Providers active in the County, relevant colleagues from the County Council such as Adult Social Care Teams, and representatives from voluntary agencies operating in the

area, such as Age Concern and Citizen's Advice Bureaux. A copy of the draft Tenancy Strategy and Tenancy Policy was circulated to all Registered Providers operating within the Borough.

People on the Housing Register, who may be affected by any proposed changes, were consulted by a questionnaire. They were invited to complete this by a link which appeared when they accessed the Housing Register.

Further consultation was carried out with the Tenants Advisory Panel (TAP) to ensure that any issues affecting existing tenants has been fully considered.

## **5 RENTS**

The Council is concerned that affordable housing is used to meet the needs of the people in the Borough with the greatest need for housing. This includes people who are unable to work, who are receiving benefits and those who are working but on an income too low to permit them to buy on the open market.

Until April 2011, all rents for affordable housing were calculated by a formula set by the Government (called target rents). However, in order to release money to invest in new affordable housing, from 2011 Registered Landlords can, in some circumstances, charge affordable rents, which are set at up to 80% of the private rent charged in the local housing market.

The Council acknowledges the contribution that affordable rent can make to the choice available to people on the housing register, particularly those on low incomes to whom it is a more attractive proposition than private rented accommodation.

The Council is therefore willing to negotiate affordable rent properties on section 106 sites that do not have Affordable Homes Grant included in the price in the following situations:

- Where there is evidence that there is a demand for affordable rented units with reference to the affordable rent evidence base and the housing register.
- On sites which are economically unviable where provision of affordable rent properties increase the number of affordable dwellings on site;
- Where inclusion of affordable rent is necessary for the Registered Provider to meet its contractual obligations with the homes and Communities Agency .

However, the Council does not wish to see the demise of social rented properties since it believes that in some areas, and some property types, affordable rents may be too high at 80% of market rents to be a truly affordable housing product.

The Council therefore wishes to see a continued supply of social rented housing to be available in the Borough, particularly in rural areas, and for larger family accommodation where applicants may already have difficulties in accessing affordable accommodation. Consideration should be given to setting the affordable rent at less than the 80% upper limit, and in any case should not exceed the Local Housing Allowance.

Similarly, whilst it is acknowledged that Registered Providers are required as part of their contract with the Homes and Communities Agency to convert a number of

properties for relet into affordable rented properties, it requests that Registered Providers have regard to the following:

- Conversions should not disproportionately affect family housing;
- Conversions should not be focussed on rural areas, where rents are traditionally higher, at the expense of properties in the urban core;
- Where conversions are proposed in higher rental areas, consideration should be given to setting the affordable rent at less than the 80% ceiling, to ensure that the property is still affordable to low income households.

## **6 FIXED TERM TENANCIES**

The Localism Act gives Registered Providers the opportunity to change the way that tenancies are granted. Previously, after successfully completing an introductory tenancy, tenants were granted a lifetime tenancy which was honoured unless the conditions of tenancy were broken.

Registered Providers may now offer a tenancy for a fixed term period. The starting point for a fixed term tenancy is for 5 years, but in exceptional circumstances it can be for 2 years, and a longer term tenancy can be granted if the landlord feels it is appropriate. A fixed term tenancy can be renewed for further periods where it is not suitable to bring the tenancy to an end.

### **Length of tenancy .**

Hinckley and Bosworth Borough Council has a preference for lifetime tenancies to continue to be granted to all tenants, and will do so for all council tenancies. However, the Council expects that where Registered Providers are offering flexible tenancies, tenants will be made aware at the start of the tenancy as to what would be a reason for not renewing the tenancy at the end of the fixed term. They must be assured that the default position is that if nothing has changed they will have their tenancy renewed.

There are different client groups whose different needs may lead to a different assessment as to the appropriate length of tenancy. In particular, the following minimum terms are recommended:

- Older people in age designated accommodation – lifetime tenancies should be considered as this accommodation is specifically designed to meet their needs.
- Families with school age children – a minimum of five years, but consideration should be given to a tenancy length which would allow the children to have stability through their school years;
- All adult households, where members of that household are likely to form their own household and move out – a 5 year tenancy;
- People with a disability- for long term disabilities – a minimum of a 10 year tenancy. However, for people with a short term condition in adapted properties, a shorter term tenancy could be acceptable dependant on the prognosis, again, with the default position that the tenancy will be renewed for a further period if the family member still requires adapted accommodation.
- Working households on low income – a minimum of 5 years.
- People under 35 – this group could in exceptional circumstances be considered for a 2 year tenancy, otherwise a 5 year tenancy would be appropriate.

Where a large housing development (more than 10 affordable houses) comes forward, consideration should be given to staggering the length of the fixed term tenancies, so that the tenancies do not all end at the same time.

**Notice to leave.**

Six months notice must be given to bring a tenancy to an end, but it is expected that Registered Providers will be working with the tenant before the notice is served, so that the decision to end a tenancy does not come as a surprise when the notice arrives, and the landlord and tenant are jointly working towards identifying suitable alternative accommodation.

It is anticipated that the most common reasons for ending a tenancy will be:

- Where the tenant is significantly underoccupying the property (more than one bedroom)
- Where the tenants income has increased to a point where it is feasible that they can meet their own needs on the open market, having regard to the likely deposit required to privately rent or to purchase a property, and the likelihood of securing a mortgage;
- Where a property is specially adapted to meet the needs of a person with a disability, and there is no-one in the household who requires that adaptation.

The ending of a fixed term tenancy is not considered to be a punitive action and is therefore not suitable for breach of tenancy conditions such as anti social behaviour or rent arrears. These issues should be pursued through the Registered Providers tenancy conditions procedures, as for lifetime tenancies.

**Homelessness Duties**

Whilst the statutory duty in respect of homelessness is vested in the Local Authority, Registered Providers has a duty to render assistance in the discharge of this duty as is reasonable in the circumstances. The Council will continue to work in partnership with Registered Providers to achieve a satisfactory outcome for priority homeless applicants.

**Stock disposals and stock swapping.**

Where a Registered Provider is considering disposal of its stock, or swapping stock to rationalise its are of operation the Council will be sympathetic to such measures where:

- The properties will remain as affordable housing with an alternative Registered Provider;
- The properties will be replaced by new affordable housing in the same settlement.

**7 REVIEW OF THE STRATEGY**

The Tenancy Strategy will be reviewed at least every 5 years, and sooner if there is a major change in policy which would affect the issues outlined in the Tenancy Strategy.



# **HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

## **TENANCY POLICY**

### **INTRODUCTION**

The Localism Act 2011 has introduced new options for landlords when considering the types of tenancies on offer to applicants for housing. In response to these new options, all Registered Providers, including stock holding Local Authorities, have to implement a Tenancy Policy to let its customers know what type of tenancy they will be granted and the conditions relating to the operation of that tenancy.

The Tenancy Policy has to have regard to the Tenancy Strategy, which is published by every Local Authority. The Tenancy Strategy for Hinckley and Bosworth Borough Council is being published at the same time as this Tenancy Policy, and the Tenancy Policy is in conformity with the guidance in the Tenancy Strategy.

### **TENANCY TYPES**

Prior to the implementation of the Localism Act, Council tenants could be offered two tenancy types: Introductory tenancies, and, if the introductory period is completed satisfactorily, granting of a secure tenancy.

Another option is now available in the granting of a flexible tenancy. This allows Registered Providers, including Local Authorities, to offer tenancies for shorter periods, usually for 5 years.

The Council will not offer flexible tenancies to any of its tenants, and will continue its policy to offer introductory tenancies to new tenants, converting to a secure tenancy on satisfactory conduct of the introductory period.

### **RENT**

Historically, social housing rents have been set with a formula set by Government. However, from 2011 Registered Providers who have signed a development contract with the Homes and Communities Agency for the 2011-15 programme, can charge affordable rent. Affordable rent is set at up to 80% of the private rent levels charged in local housing markets. New housing provided with funding from the Homes and Communities Agency has to be set at affordable rent levels. Older properties which become available for relet, can be converted to affordable rent.

Hinckley and Bosworth Borough Council does not currently have a contract with the Homes and Communities Agency. Should this position change, the Council will only charge affordable rent where it is a condition of receiving grant from the Homes and Communities Agency to do so. The Council will not convert any of its existing stock to affordable rent.

### **POLICY REVIEW**

The Tenancy Policy will be reviewed annually. Where changes are required, approval will be sought from the Council before the changes will be implemented.

## HOUSING REGISTER CONSULTATION RESPONSES

### Public Consultation

A 2 week public consultation ran from the 1<sup>st</sup> November to the 15<sup>th</sup> November 2012. The target for this consultation was people registered on Hinckley and Bosworth Borough Council's housing register. There were a total of 25 responses to the survey. Only 5 of the respondents are currently social housing tenants, of either the Council or a Registered Provider, and this may be reflected in some of the comments cited below.

### Fixed Term Tenancy

Nearly two thirds of respondents stated that they would consider a fixed term tenancy.

Would you consider a fixed term tenancy?	No	%
Yes	16	64%
No	9	36%
Did not respond	0	0%

Specific comments were made in relation to;

- Overcrowding and need to access family housing as well as underoccupation, for example; *'Fairer to all, I know single OAPs living in 3 bed houses'*; *'Available housing needs to be effectively managed'*
- Difficulties of older and disabled households to move home for example, *'I want a lifetime tenancy when I get the right property which has been adapted for my needs'*.
- Desire for security of tenure, particularly for people with children, for example, *'having rented privately I would need a permanent home for my children without the possibility of having to move on again'*, *'security for my children'* and *'I don't want to keep moving about at my age and with decreasing mobility'*
- Better conditions than in the private sector, for example. *'previous experiences i.e. property having hidden damages, damp, wood rot, leaks'*

### Tenancy Length

How long would a tenancy need to last for you to consider moving to another property?		
2 years	7	28%
5 years	4	16%
10 years	1	4%
More than 10 years	4	16%
Lifetime	9	36%
Did not Respond	0	0%

**What do you think is a reasonable length of tenancy for most people?**

2 years	6	24%
5 years	7	28%
10 years	4	16%
10+ years	5	20%
Lifetime	3	12%
Did not Respond	0	0%

**Do you think there are some groups who should be entitled to longer tenancies (e.g. lifetime tenancies) because of their circumstances?**

older people	6	24%
people with a learning disability	1	4%
people with a physical disability in adapted homes	11	44%
offenders	0	0%
people fleeing domestic abuse	1	4%
young people	1	4%
households at risk of homelessness	5	20%
other	0	0%

Other reasons given were as follows;

- *Overcrowded young families*
- *Families with children*
- *Most of the above and people who regard their areas as their home town rather than a new neighbourhood.*

**Do you think there are some groups who should be given shorter tenancies (e.g. the minimum 2 years) because of their circumstances?**

older people	0	0%
people with a learning disability	0	0%
people with a physical disability in adapted homes	1	4%
Offenders	16	64%
people fleeing domestic abuse	3	12%
young people	2	8%
households at risk of homelessness	3	12%
Other	0	0%

Other reasons given were as follows;

- *I don't think anyone should be treated differently.*
- *Perhaps people who are only in the area for a short while due to their jobs/ their partners jobs*

## Community Cohesion

**Do you think shorter tenancies for affordable housing tenants could affect your community (for example because people will be less interested in getting involved)?**

<b>Yes</b>	10
<b>No</b>	13
<b>Did not respond</b>	2

When asked for comments on the impact of fixed term tenancies on communities, respondents were split in their opinions, with approximately half thinking shorter tenancies could affect local communities and half not, a selection of specific comments are shown below to illustrate these views expressed:

- *Most are not interested in the community*
- *Not interested in the community or the property, just use it as a base to live*
- *I think less people will want to live in the area because they are paying for shorter tenancies*
- *The impact may be parents not getting their children involved as much with local events. It may affect children whose parents are on a two year tenancy e.g. schooling, making and keeping friends.*
- *Maybe those people on short term lets would bring in a freshness to the community*
- *People won't care about their houses or gardens as they would think will they are not here for long so why maintain it*
- *I think as the demand to live in Bosworth is quite high, people with shorter tenancies could be moved out of the area for more suitable housing with no choice*
- *People won't be interested*

**Q09 Do you think that the length of tenancy should be different in different locations (e.g. giving longer tenancies in small rural villages where there are not alternative properties to move in to if the tenancy was ended)?**

<b>yes</b>	4
<b>No</b>	7
<b>Did not respond</b>	14

More than half chose not to respond to this question, therefore specific comments on this question were limited however there were a high number of comments to support treating all tenants equally and fairly. Examples of comments include:

- *yes in smaller villages because of the lack of housing available.*
- *yes I do. I also think longer tenancies should be given to parents with young children so they get a sense of community and stability. It is not good for them to keep moving schools. Young families need help.*
- *Every tenancy should be treated equally*
- *It should be the same rules for everyone.*
- *Depends on the circumstances.*

### **Information for homeseekers to decide whether a home let on a fixed term tenancy meets their needs**

Only half of respondents chose to answer this question. Comments were made in regard to general information required to make an informed choice about a property, particularly local services and amenities (such as location of GP surgeries / schools) and specific property details (more pictures of the houses, the type of house and if they could have a good standard of living there.) A comment also asked for information on availability of properties as they had been waiting to move for ages. The need to provide information based on needs of individual was also mentioned (whether or not there is disabled access for disabled people).

A number of comments were made that directly related to fixed term tenancies, these related to the need for information being set for the length of the tenancy. The following specific comments were made:

- *just statement of length of tenancy and continuance of information already provided. It is up to individuals to form their own judgements based upon that information*
- *if they plan to stay in the let for the short term or long term depending what their needs are – give them all the alternatives but keep it simple.*
- *the possibility of being kicked out at end of tenancy. The choice of properties available and whether they get a choice in refusing a property offered.*

### **Tenancy Renewal**

#### **Q11 - What factors do you think should be considered when deciding whether to renew a tenancy?**

<b>Household income</b>	9	36%
<b>Age of tenants</b>	4	4%

<b>the need for adaptations</b>	5	20%
<b>Whether the home has more bedrooms than the household now needs</b>	6	24%
<b>How easy it is to find more suitable housing in the area</b>	4	16%
<b>Other (Please State):</b>	0	0%

Other reasons given were as follows:

- *If the people have been a public nuisance or not*
- *You're the Council, you're there to help people, that's what we are paying taxes for isn't it?.*
- *Whether the house is what they need, if the house is where they need or want to be for schools and family etc*
- *If any problems in the past how quick the landlord was to fix or repair, and vice versa*
- *Whether they have been good tenants*
- *If a child is settled at school they should be left there. If a family member has an injury/ illness that requires they need help.*

Respondents were asked what should happen if a landlord was not going to renew the tenancy. The majority of respondents stated that housing options advice should be given to help people find a suitable alternative property. Other comments included a need for time to be given to find another home. A selection of these comments are shown below:

- *Dependent upon reasons for non-renewal. This will presumably affect points awarded towards social housing eligibility.*
- *Meetings with landlord and third parties*
- *Emergency housing i.e. council pay until you find them somewhere.*
- *Other options available to them to rent, and a referral to reputable rental agencies .*
- *Support with housing for people on a low income if needed or a rent payment system*
- *Perhaps council could enquire personally to landlord and ask for their reason why they won't renew it maybe they should only have the chance to do so if the tenants have given good reason for this i.e. generally unsociable disrespectful people*
- *Information as to why it is not going to be renewed, if it is fair and could you appeal if you felt it wasn't. Someone to liaise on your behalf to avoid any upset on both parties.*
- *The impact on the household, e.g. if they were to move would it affect work, school, childcare etc*

## **Affordable Rent**

Respondents wanted easy to understand information on the costs of a property and to be able to understand the impacts of future rent increases.

Many of the comments were around financial advice and housing benefit entitlements; respondents expressed a need for better information on how they could get help with their rent and a number also wanted financial advice to understand how affordable rent would be affordable to them; several suggested individual income and expenditure assessments. Specific comments to illustrate the views expressed are shown below:

- *Could you be entitled to housing benefit to help with cost*
- *A budget planner.*
- *Breakdown of the costs and a review of the household income, so a meeting with someone so everybody understands.*
- *Whether my financial situation could cope with the raise in rent.*
- *Someone to come and explain it to me clearly, as I don't understand and have not heard of the new higher affordable rent level and not sure if I would be able to afford it*
- *Working couples only.*

### **Choice Based Lettings Advert Information**

The main comments were for clear information on the terms of the tenancy and information on its length and rent costs. Some respondents stated that the information currently provided is sufficient, where as others would like to see more detail on the property, such as room sizes, and amenities. Specific comments to illustrate the views expressed are shown below:

- *Length of tenancy on each property, what would happen when the tenancy runs out.*
- *All appears OK as it is*
- *All the upkeep info inside and outside the property so not to become scruffy*
- *All information i.e. when it starts, when it ends, what will happen when it ends, what it includes*
- *Explaining the length of time and what is expected of the person taking on the tenancy, in easy to read print but so it stands out.*





**COUNCIL – 28 JANUARY 2013**

**RE REVIEW OF THE FINANCIAL PROCEDURE RULES  
REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE  
DIRECTION)**

**WARDS AFFECTED: ALLWARDS**

**1. PURPOSE OF REPORT**

- 1.1 To highlight proposed changes to the Financial and Contract Procedure Rules (the Rules) to bring the documents up to date and to reflect recommendations made by Internal Audit.
- 1.2 A full copy of the Financial and Contract Procedure Rules with the proposed changes is available upon request.

**2. RECOMMENDATIONS**

- 2.1 That Council approves the changes to the Financial and Contract Procedure Rules outlined in paragraph 3.3

**3. BACKGROUND**

- 3.1 Section 2K of the Financial Procedure Rules states the “Financial Procedure Rules must be reviewed annually and Council must approve any amendments”. The Financial and Contract Procedure Rules have been updated to reflect any changes in processes and legislation. In addition, Internal Audit have recommended a number of minor alterations to the Rules which have been reflected in the revised document.
- 3.2 As a general comment, all references to job titles of officers and committee structures have been reviewed and amended where required to reflect the current structure.
- 3.3 The following specific changes have been made to the Financial Procedure Rules and are presented for approval:

Section	Change
3. Accounting Procedures	<ul style="list-style-type: none"> <li>○ Additional requirement for a separate Annual Governance Statement to be produced by 30<sup>th</sup> June. This document no longer forms part of the Statement of Accounts</li> <li>○ Additional requirement that all reconciliations must be independently reviewed in order to maintain segregation of duties</li> </ul>
5. Banking Arrangements	<ul style="list-style-type: none"> <li>○ Requirement for all bank reconciliations to be reviewed independently now included</li> </ul>
6. Capital Programme (Creation)	<ul style="list-style-type: none"> <li>○ Clarification of terms, including the requirement for the Capital Programme to include details on capital financing</li> </ul>
10. Capital Programme (Control)	<ul style="list-style-type: none"> <li>○ Amendment to reflect that the Finance and Audit Select Committee receive quarterly reports on the Capital Programme</li> </ul>
12. Income	<ul style="list-style-type: none"> <li>○ Inclusion of performance target – debtors invoices must be raised within 1 calendar month of the service provision</li> </ul>

	<ul style="list-style-type: none"> <li>○ Write Offs: Document reflects the additional limits in place within the Leicestershire Revenues and Benefits Partnership for revenue and benefits write offs</li> </ul>
13. Internal Audit	<ul style="list-style-type: none"> <li>○ Requirement for all Chief Officers to complete an annual "Assurance Statement" to inform Internal Audit Annual Report and the Annual Governance Statement</li> <li>○ Reference to Accounts and Audit Regulations updated from 2003 to 2011</li> </ul>
15. Investments, Borrowings and Trust Funds	<ul style="list-style-type: none"> <li>○ Reporting lines to Finance and Audit Select Committee now included</li> </ul>
16. Orders for Works, Goods and Services	<ul style="list-style-type: none"> <li>○ Clarification that Authorisation Limits are in place for both the Civica Financials system and Orchard, for housing related purchases</li> <li>○ Inclusion of requirement that all orders for work, goods or services must be made by the person receiving the work, goods or services.</li> <li>○ Widening of the use of available framework contracts procured specifically for the use of public sector bodies.</li> <li>○ Provision now included for general exceptions to order limits (under very specific circumstances) and revisions to exceptions that are only granted by an SLB member and Deputy Chief Executive (Corporate Direction).</li> </ul>
22. Revenue Budget (Creation)	<ul style="list-style-type: none"> <li>○ Inclusion of additional paragraph to reflect that any increases to base budgets (growth items) must be submitted formally by budget holders and approved by SLB</li> </ul>
27. Staffing Changes	<ul style="list-style-type: none"> <li>○ All requests for additional establishment posts should be submitted for scrutiny by COB to ensure appropriate challenge</li> </ul>

3.4 The following specific changes have been made to the Contract Procedure Rules and are presented for approval:

Section	Change
4. Requirements for Tender	<ul style="list-style-type: none"> <li>○ Provision now included for general exceptions to the requirement to tender (under very specific circumstances) and revisions to exceptions that are only granted by an SLB member and Deputy Chief Executive (Corporate Direction).</li> </ul>
5. Open Competitive Tenders	<ul style="list-style-type: none"> <li>○ Revisions to advertising requirement for contract opportunities that now includes at least two methods, one of which must be Source Leicestershire – a recognised public sector buying portal.</li> </ul>
8. Pre-Vetted Company List	<ul style="list-style-type: none"> <li>○ This has been removed to ensure transparency and open competition in all tenders.</li> </ul>

11. Form of Invitation to Tender and Submission of Tenders	<ul style="list-style-type: none"> <li>○ Revised to allow the electronic receipt of tenders through specifically designed secure software.</li> <li>○ Specific requirement now included that where tenders are submitted hard copy they must be date and time stamped and locked away until the designated opening time.</li> </ul>
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**4. FINANCIAL IMPLICATIONS (KB)**

Contained within the body of the report.

**5. LEGAL IMPLICATIONS (AB)**

The change to the financial procedure rules will result in a change to the Constitution and as a result a two thirds majority vote will be required to approve the report.

**6. CORPORATE PLAN IMPLICATIONS**

The Council's financial standing is maintained and the finances remain healthy over the period of the plan.

**7. RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision/project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report/decision were identified from this assessment:

<b>Management of Significant (Net Red) Risks</b>		
<b>Risk Description</b>	<b>Mitigating Actions</b>	<b>Owner</b>
None		

**8. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

There are none.

**9. CORPORATE IMPLICATIONS**

By submitting this report the author has taken the following into account:-

- Community Safety Implications
- Environmental Implications
- ICT Implications
- Asset Management Implications
- Human Resources Implications

Background Papers: Financial Procedure Rules

Author: Katherine Bennett Head of Finance ext 5609  
 Executive Member: Councillor KWP Lynch

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Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**COUNCIL – 28 JANUARY 2013**

**ASBESTOS TREATMENT SUPPLEMENTARY BUDGET  
REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE  
DIRECTION)**

**WARDS AFFECTED: ALL WARDS / CORPORATE ISSUE**

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**1. PURPOSE OF REPORT**

- 1.1 To update members on the current position regarding asbestos treatment at a number of Housing properties.
- 1.2 To seek member approval for a supplementary budget required to cover the costs arising from the required treatment.

**2. RECOMMENDATIONS**

- 2.1 That Council approves the supplementary budget of £130,000 from the Housing Revenue Account (Responsive Repairs) to enable all of the required works to be carried out.

**3. BACKGROUND**

- 3.1 As a result of other works being carried out, the Housing Repairs Service has become aware of a risk of asbestos dust and particles being present in the loft space of some of our properties. The risk is present within our British Iron and Steel Federation (BISF) Non-Traditional Houses (98 in total). Appropriate testing was commissioned to determine the precise nature and content of the dust and particles in the loft space.
- 3.2 The reports have been submitted stating that chrysotile asbestos cement dust is indeed present in small amounts with a recommendation that the contamination is to be removed and safely disposed of. As the contaminate is also present within loft insulation, the removal works will also require making good with new insulation.
- 3.3 Providing the asbestos is not disturbed, it does not pose a risk to health. All affected tenants and residents have therefore been advised not to enter the loft space until the works have been completed. Upon completion of the works, further tests will be carried out, including an air test, to ensure all traces of the contaminant has been removed.
- 3.4 The works now need to be carried out as soon as possible at all affected properties. 39 of these 98 properties have been previously sold under the Right to Buy scheme. Whilst the Council does not have a statutory duty of care to these properties, we do have a moral duty and should act responsibly, as such, they are included within the work programme.
- 3.5 A procurement process has been used to select an accredited contractor for the works through an Efficiency East Midlands framework. The cost of the works for all properties is c£130,000. This work was not programmed as it was unforeseen and therefore cannot be met from existing budgets. Council is therefore asked to agree a supplementary budget of £130,000 in accordance with Financial Procedures.
- 3.6 It is understood that the asbestos remains following reroofing work that was undertaken during programmed works in the 1980s where the removal should have been completed.

#### **4. FINANCIAL IMPLICATIONS (KB)**

- 4.1 The original responsive repairs budget for 2013/14 was £1,058,655. This was reduced by £150,000 in September 2012 following Council approval of a virement to the HRA capital scheme.
- 4.2 On the basis of the above, this supplementary would mean a revised estimate for Responsive Repairs of £1,038,655 as indicated below:

	Budget £	Supplementary £
Original budget	1,058,655	
Supplementary budget (Sept '12)		-150,000
Revised estimate	908,655	
Supplementary budget (Jan '13)		130,000
Latest estimate	1,038,655	

- 4.3 The expenditure for asbestos removal cannot be capitalised as the cost of the work on individual properties is below the capitalisation threshold for the Council. In addition, the work is not deemed to be an enhancement to the properties.
- 4.4 The Housing Repairs Account had an opening balance of £420,170 as at 1<sup>st</sup> April 2012. The cost of this additional work will be funded from this balance.

#### **5. LEGAL IMPLICATIONS (AB)**

- 5.1 With regard to the Council's liability for properties previously sold under the right to buy scheme. In the sale of any property it is the responsibility of the buyer to carry out sufficient surveys of the property to ensure that the property is sound and that there are no dangerous materials such as asbestos in their construction. The Council does not have any legal liability to the homeowners of these properties.
- 5.2 As there have been no personal injuries and the failure to remove the asbestos happened more than 15 years ago the Limitation Act 1980 provides that no action can now be taken against the roofing contractors who originally carried out the work.

#### **6. CORPORATE PLAN IMPLICATIONS**

The Council's financial standing is maintained and the finances remain healthy over the period of the plan.

#### **7. RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision/project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report/decision were identified from this assessment:

<b>Management of Significant (Net Red) Risks</b>		
<b>Risk Description</b>	<b>Mitigating Actions</b>	<b>Owner</b>
Asbestos being present in additional properties	All known presence of asbestos is recorded within the Council's Asset Maintenance System. Asbestos surveys still continue to be carried as required.	Ian Parsons

**8. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

None.

**9. CORPORATE IMPLICATIONS**

By submitting this report the author has taken the following into account:-

- Community Safety Implications
- Environmental Implications
- ICT Implications
- Asset Management Implications
- Human Resources Implications

Background Papers:           None

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Executive Member:           Councillor KWP Lynch

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## COUNCIL - 28 JANUARY 2013

### LOCALISATION OF COUNCIL TAX SUPPORT REPORT OF DEPUTY CHIEF EXECUTIVE (CORPORATE DIRECTION)

#### WARDS AFFECTED: ALL WARDS

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#### 1. Purpose of the Report

- 1.1 The Local Government Finance Bill sets out measures that will require all Council Tax billing authorities to devise and implement a local Council Tax Support Scheme to replace the current nationally determined Council Tax Benefit Scheme.
- 1.2 This report sets out the Council's proposed responses to the measures set out in the Bill and seeks approval for the proposed scheme and provide appropriate delegations that will allow implementation of the proposals in accordance with the required timescale.

#### 2. Recommendation

- i. that the proposed local scheme of Council Tax Support, as set out at **Appendix A**, be approved.
- ii. that the proposed Discretionary Discount Fund, as set out at **Appendix B**, be approved.
- iii. that the proposals to take advantage of new powers set out in the Local Government Finance Bill to vary statutory exemptions from Council Tax in respect of vacant and unoccupied dwellings, as set out in **Appendix C**, be approved.
- iv. that the financial support offered by major preceptors in respect of the proposed Discretionary Council Tax Discount Fund and the additional administrative costs that would be incurred by the Council under the proposed new arrangements, as set out at **Appendix D** be noted; and
- v. that delegated authority be given to the Deputy Chief Executive in consultation with the portfolio holder to make all detailed arrangements required to implement the proposed local scheme of Council Tax Support, the proposed Discretionary Council Tax Discount Fund and the variations to statutory exemptions from council tax.

#### 3. Summary of Reasons for the Recommendations

- 3.1 To agree a local scheme to be used to calculate Council Tax Support for the financial year commencing 1st April 2013.
- 3.2 To agree the introduction of a discretionary fund that will allow the Council to mitigate the impact of the proposed local scheme of Council Tax Support on the most vulnerable residents from 1 April 2013.
- 3.3 To spread the financial burden arising from the implementation of the proposed local scheme of Council Tax Support and the Discretionary Council Tax Discount Fund, and to encourage owners to bring empty homes back into use.

- 3.4 To ensure that members are fully aware of the financial implications of the proposals and the financial support offered by major preceptors.
- 3.5 To allow proposals to be implemented in accordance with the required timescales.

#### **4 Background to the Report**

4.1 The recently enacted (1 November 2012) Local Government Finance Act includes measures which will require all council tax billing authorities to devise a local Council Tax Support Scheme to replace the current national Council Tax Benefit Scheme. The implementation timescales set out in the Act require that local schemes have to be in place by 1 April 2013, and it is therefore necessary that the Council brings forward its proposals in advance of the publication of the detailed regulations that will underpin this legislation. This report outlines the background, options and recommendations for delivering a local Council Tax scheme for the Council from April 2013. It explores the challenges and both specific and strategic impacts and explains how the proposals were formulated.

4.2 The Council has two principal options in designing a new Council Tax Support Scheme:

- i) Create a scheme that replicates existing arrangements as far as possible (known as the 'default' scheme since such a scheme will be imposed on Councils that fail to implement a local scheme)
- ii) Introduce a 'new' scheme.

4.3 In considering options the Council needs to be mindful of key constraints:

- Government funding for the local schemes will be reduced compared to the existing national funding for council tax benefit. In broad terms it is expected that the Council's grant funding for council tax support will only cover only 90% of the costs of the existing scheme based on current claimant numbers
- The implementation timetable for the local scheme is very challenging and the Council is limited, particularly by existing systems and software, in the scheme design options it might consider
- It is a requirement of the local scheme that the benefits of pensioner claimants are protected at current levels
- The Council has a duty to consider the impact of the local scheme on vulnerable groups
- Strong encouragement by Government to restrict the impact on the vulnerable.

4.4 This report proposes that the Council will introduce a 'new' local scheme on the grounds of financial sustainability, a desire to support the Government policy of incentivising work rather than benefits, and having regard to the outcome of extensive consultations with the public and major preceptors (for whom the financial sustainability of local schemes is a major issue). The Council has given consideration to the Government's strong encouragement and financial incentive to design a local scheme that restricts the impact on the vulnerable but does not wish to introduce a scheme which may increase the burden of meeting its cost on the ordinary council taxpayer.

4.5 Basis of the new scheme

The new scheme is based on a common Leicestershire and Rutland framework, developed jointly by the participating authorities. At the core of the new scheme is a benefit 'cap', which for Hinckley & Bosworth restricts benefits for working age claimants to a maximum of 91.5% of their total council tax liability. This approach, which will impact all working age claimants, is necessary if the new arrangements are to be financially sustainable.

#### 4.6 The solution proposed consists of the following elements:

##### i) New local Council Tax Support Scheme

Set out at **Appendix A**, the local Council Tax Support Scheme for is based upon the 'core' (or framework) scheme developed in partnership with Leicestershire and Rutland local authorities. The core scheme consists of a maximum eligibility cap, set individually by each authority in the range 80% - 91.5%. This is combined with amendment of other allowances existing within the current Council Tax Benefit Scheme which, again, can be set by individual local authorities in response to local circumstances.

The specific scheme for Hinckley & Bosworth incorporates an eligibility cap of 91.5% - a relatively lower impact on the vulnerable – together with the removal of second adult rebate.

On 16 October 2012 the government released new guidelines on the design of local schemes (source: DCLG, statement by the Parliamentary Under Secretary of State, Baroness Hanham) with which compliance was strongly encouraged, together with a financial incentive of one year's transitional funding for those Councils complying with these guidelines. A compliant scheme will be:

- Those who would be on 100 per cent support under current council tax benefit arrangements pay between zero and no more than 8.5 per cent of their council tax liability;
- The taper rate does not increase above 25 per cent;
- There is no sharp reduction in support for those entering work - for claimants currently entitled to less than 100 per cent support, the taper will be applied to an amount at least equal to their maximum eligible award.

The DCLG statement goes on, 'In allowing flexibility over aspects of the scheme, we would not expect local authorities to impose large additional increases in non-dependant deductions. Councils will rightly want to avoid collecting small payments, and it may consequently be better value for money for councils to avoid designing schemes which seek to do so.'

On eligibility for transitional grant funding the DCLG state, 'The amount of funding for which councils will be eligible to apply and the timescales and process for making an application will be published shortly. We anticipate that councils will make applications after 31 January 2013, and that funding will be paid in March 2013. The grant will be a simple one, easy to apply for and swiftly paid out, to help those councils who choose to do the right thing.

The Government has not however given any indication that the Transitional grant will be available beyond 2013/14 and by its very title it suggests it will not be a permanent feature. Therefore authorities taking up the grant may have to make significant modifications to their new schemes in readiness for 2014/15 financial year.

If we include revenue generated by varying the council tax exemption, the grant and the various benefit changes this would generate savings based on the existing benefit scheme and benefit caseload in the order of £716k, in gross terms (i.e. assuming all additional council tax due can be collected).

In practice it is likely that much of this incremental council tax billing will prove uncollectible. Precise predictions are difficult but based on existing arrears history it is projected that around 20% of the additional income may not be realised.

ii) Discretionary Discount Fund

The resident survey clearly demonstrated that a majority of respondents thought that the vulnerable should be protected. However, other than war widows (who are a small claimant group), protecting other classes of vulnerable, such as those with dependant children or disabilities is not practical due to the size of these claimant groups; protecting such a group would result in unacceptably large benefit reductions for other claimants. In response to this issue councils in Leicestershire are proposing to create individual Discretionary Discount Funds in each local authority area. The Fund will have common eligibility criteria enabling discretionary discounts to be offered to residents on a case by case base. The total funding for Hinckley & Bosworth is proposed at £58k, of which Hinckley & Bosworth Council will fund £6k with the balance provided by major preceptors.

Detailed proposals in respect of this fund are set out at **Appendix B**.

iii) Technical changes to council tax

The Council will take advantage of proposed technical changes in council tax to reduce discounts on empty properties. These existing exemptions (which will be reduced <sup>1</sup>) are:

- Class A - Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to 12 months) will be reduced to 50%
- Class C - A vacant dwelling, i.e. empty and substantially unfurnished (up to 6 months) will be 100% relief for 1<sup>st</sup> month and 100% charge for the following 5 months.
- Removal of the 10% Second Home Discount

Additional net council tax billings in respect of these changes are estimated at £387k. In addition to the extra revenue generated it is envisaged that these changes will encourage owners to bring empty properties back into use more swiftly.

## 5. Options considered

5.1 There are two basic options that can be considered in designing a new scheme:

- i) Create a scheme that replicates existing arrangements as far as possible (known as the 'default' scheme since such a scheme will be imposed on Councils that fail to implement a local scheme).

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<sup>1</sup> Class C discounts will be 100% for the first month to reduce the number of uneconomical bills, reverting to 100% for ensuing months. Rules state that the percentage discount in respect of Class A cannot be altered within the discount period so the discount offered will be 50% from day one.

ii) Introduce a 'new' scheme.

The advantages and disadvantages of these two options are summarised below:

<i>Default scheme</i>	<i>New scheme</i>
<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>+ No impact on claimants; vulnerable protected</li> <li>+ Limited process / system changes required</li> <li>+ Very limited risk of legal challenge to the scheme</li> </ul>	<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>+ A fully or partially financially sustainable scheme may be developed</li> <li>+ Option is strongly supported by major preceptors</li> <li>+ Scheme can be designed to support government objectives of supporting people into work</li> </ul>
<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>- Council and major preceptors would need to fund part of the scheme; risk that funding shortfall will increase in future years</li> <li>- Very significant financial implications for major preceptors</li> <li>- Does not support government objectives of supporting people into work</li> </ul>	<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>- Some or all working age claimants will be adversely affected by new scheme including some groups that may be deemed vulnerable</li> <li>- Some implementation risks due to timescales</li> <li>- Risk of legal challenge if public consultation and scheme design are not effective</li> </ul>

- 5.2 Within these options there are various approaches that could be developed. One approach suggests that Councils should adopt the 'default' scheme initially due to the implementation risks associated with the challenging timescales and then introduce a new scheme in future. However, this carries the risk that the Government will offer claimants 'transitional relief' limiting local authorities ability to reduce benefits in future years. This would mean that even if a Council wished to design a financially sustainable scheme from, say, 1 April 2014, it would not realise those savings due to the effect of transitional relief.
- 5.3 Another variation considered by many local authorities is to use the new revenue opportunities afforded by changes to the Council Tax regime in respect of second homes and empty properties to mitigate the impact of the reduction in funding.
- 5.4 In the light of the information and feedback set out above a new local scheme that is financially sustainable (in conjunction with other measures) is proposed.
- 5.5 Along with the other Leicestershire Districts, Hinckley & Bosworth commissioned Coactiva, a data consultancy, to undertake a detailed analysis of the existing council tax benefit caseload based on data extracts at 30 April 2012. Key findings from this report are as follows:
- 56.1% of the caseload (some 3,999) were of Pension Age; 43.9% (3128 cases) were related to Working Age residents

- Annualised benefits payable were £5,890,025; assuming a 10% reduction in grant this would imply shortfall in funding (spread between Hinckley & Bosworth and preceptors) of £589,002<sup>2</sup>
- Of the Working Age caseload:
  - There were 696 claims with disabilities
  - There were 1,699 claims with dependent children
- In order to achieve the savings required to make the new scheme financially sustainable it is apparent that a restriction on maximum eligible support (or 'cap') must be applied; the report calculates savings as follows:
  - 75% cap gives savings of £573,193
  - 80% cap gives savings of £545,048
  - 85% cap gives savings of £515,465

Subsequently further calculations were performed assuming a 91.5% cap; these gave savings of £244,626

## 6. **Financial Implications (KB)**

- 6.1 The current council tax support scheme is funded on an 'actively managed expenditure' or 'AME' basis. From the Council's perspective, providing the scheme is administered correctly, the reductions in council tax revenue are fully reimbursed via a grant claim to the DCLG.
- 6.2 Under the new arrangements however local authorities will each receive an annual grant, calculated by DCLG, to cover the costs of the local scheme. As noted previously, the current understanding is that the grant awarded will equate to approximately 90% of the existing costs of the national scheme. Importantly, this amount will also be 'delegated expenditure'. This means that the amount awarded to each local authority is fixed and if caseloads increase, **the additional costs will need to be borne locally**. The risk of an increasing caseload therefore lies with individual local authorities.
- 6.3 To avoid the whole burden of government grant restrictions falling on working age claimants the Council is proposing to take advantage of technical changes to the council tax regime proposed in the Local Government Finance Bill. The changes include giving local authorities more flexibility on what discounts they can apply on second homes and certain empty properties. This report proposes that the Council reduces these discounts which, in addition to raising revenue, should encourage owners to bring empty dwellings into use more quickly. The proposed changes to Council Tax in respect of empty properties are set out at **Appendix C**.
- 6.4 The cost of designing and implementing a local scheme to replace the existing Council Tax Benefit scheme is unknown but significant. Although the Government has agreed to provide funding to meet the cost of the changes there is no indication of the final level of DCLG funding to be provided.

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<sup>2</sup> Figures have been calculated by Coactiva, and are shown in this section, as precise amounts. However, readers should be aware that the figures can only be regarded as indicative for the purposes of projecting funding shortfalls and savings in future years.

- 6.5 The features of the proposed local Council Tax Support Scheme combined with envisaged changes to discount rates on empty properties are designed to offset reductions in government funding for council tax support and create a financially sustainable arrangement for both Hinckley & Bosworth Borough Council, and the major preceptors.
- 6.6 The Council can take advantage of proposed technical changes in Council Tax and reduce or eliminate discounts and exemptions on empty properties. These are:
- Class A - Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to 12 months)
  - Class C - A vacant dwelling, i.e. empty and substantially unfurnished (up to 6 months)
- 6.7 A and C exemptions are financially significant; reducing these exemptions to 50% for Class A & nil for Class C after one month respectively might create additional annual revenue in the order of £45k and £319<sup>3</sup> respectively.
- 6.8 HBBC analysis

	Saving £	Less 20% (movement in benefit caseload and losses in collection) £
8.5% Cap	244,626	195,701
Removal of 2nd adult rebate	11,934	9,547
Class A exemption 50% for 12 months	56,597	45,278
Class C 100% for 1 month	398,694	318,955
Removal of second home discount	28,068	22,454
Contribution to Discretionary Fund	-58,316	-58,316
Contribution to Admin Costs	-23,100	-23,100
Grant Allocation	139,387	139,387
	797,890	649,907
Target savings (County Wide)	664,414	664,414
Surplus (Deficit)	133,476	-14,507
HBBC element (10.5%)	14,076.62	-1,529.98

- 6.9 As noted above, the Council is likely to incur additional operational costs in implementing the proposals set out in this report. Given the financial benefit to major preceptor partners from the creation of a financially sustainable solution they have agreed in principle a contribution to the additional administration costs.
- 6.10 Overall, from a Hinckley & Bosworth perspective, although the financial analysis is an estimate, the aggregate of individual amounts does not suggest that the Council will suffer a material financial deficit in financial year 2013/14.

<sup>3</sup> This estimate assumes that a full discount would be offered for the initial month of void; this approach is in line with the approach of other Leicestershire Districts and is designed to reduce the number of small bills that would be uneconomical to collect.

## 7. **Legal Implications (LH)**

### 7.1 Implementation Timetable including Future Decisions

The Local Government Finance Act requires all local authorities must have approved their Local Scheme for Council Tax Support by 31 January 2013 prior to the Schemes inception on 1 April 2013.

In practice, local authorities need to have schemes designed, with supporting customer communication plan, business processes and information technology in place, ready for the 2013/14 Council Tax billing which occurs in mid-March 2013. It is therefore essential that these proposals for the new scheme, are approved at this meeting.

## 8. **Corporate Plan Implications**

In order to share ideas and resources Leicestershire Districts and Rutland County Council have been working together to develop a common framework for the local schemes of Council Tax support across the area. It is envisaged each scheme will share common parameters which will be varied to reflect local differences in demography and policy objectives. The major preceptors have been fully engaged throughout this process. The working groups have also engaged with Leicester City Council to understand their emerging response to this matter.

## 9. **Consultation**

- The main public consultation was a web-based approach generated through joint working with other Leicester local authorities and Rutland County Council
- The public consultation was supplemented with a series of 'road show' events to ensure stakeholders such as Citizens Advice Bureau, other voluntary sector organisations and social landlords were suitably consulted on the issues and proposals
- Major preceptors - Leicestershire County Council and the Police and Fire Authorities - are key stakeholders for these proposals; officers from the major preceptors have been fully engaged through workshops developing the joint Leicestershire and Rutland framework scheme in addition to formal correspondence.

### 9.1 Overview of web-based survey results:

- A total of 187 responses were received – this is considered reasonable for this type of consultation and is line with the numbers received in other Leicestershire Districts running this survey
- More Females than Males responded to the consultation
- The average age of respondents was 25-65 with the majority of respondents being of working age
- Limitation of the data collected means that it is not possible to determine which respondents are on low or minimum wages, although it is possible to say that every ward is represented in responses based on the postcode analysis



## 9.2 Specific responses to the detailed web questions include the following:

- Proportion of respondents who believe the council should protect the vulnerable from paying more - 85.50%
- Proportion of respondents who believe that everyone apart from pensioners should pay something towards their council tax –65.78%
- Proportion of respondents who believe that everyone apart from pensioners should pay a minimum of 10% towards the council tax - 56.68% (versus 33.69% who disagree with this)
- Proportion of respondents who believe that everyone apart from pensioners should pay a minimum of 20% towards the council tax - 31.55% (versus 52.41% who disagree with this)
- Proportion of respondents who believe people living in more expensive properties should get less council tax support – 54.01%
- Proportion of respondents who believe individuals receiving council tax benefit should be given extra help, for a limited period, when they start to work – 64.17%
- Proportion of respondents who believe that the incremental contributions towards an individuals council tax should increase by more than 20p for every additional £1 earned – 48.13% (versus 40.16% who disagree with this)
- Proportion of respondents who believe that other adults other than the claimant (essentially non-dependant children) should be expected to contribute more towards the council tax bill than at present –65.65%
- Proportion of respondents who believe that the second adult rebate (arising where claimants live with a low income individual who is not their partner) should be stopped – 73.80%
- Proportion of respondents supporting a reduction from the current £16,000 limit on savings, above which an individual would not qualify for council tax benefit – 55.08% supportive, 43.32% disagree

## 9.3 Key comments from preceptors:

- The principle of partnership working adopted by Leicestershire Districts is strongly supported
- The development of new local schemes that are designed to be financially sustainable is strongly supported
- The preceptors are fully behind the proposal that Councils across Leicestershire should use some of the new flexibilities around removal of discounts for empty and second properties to make up the shortfall and reduce the impact on current recipients of council tax benefit
- A 'hardship fund', to mitigate the impact of the new local schemes on Council Tax benefit recipients should be introduced
- It is recognised that many local authorities will wish to design schemes so as to take advantage of the transitional funding on offer

- 9.4 The detailed consultation responses and associated correspondence are included as background papers to this report.
- 9.5 Following the new Government guidance on scheme design (see Appendix E) it was deemed necessary to undertake a supplementary consultation exercise in conjunction with other Leicestershire local authorities to validate the local scheme proposed in this report.

## 10. Risk Implications

- 10.1 The current council tax support scheme is funded on an ‘actively managed expenditure’ or ‘AME’ basis. From the Council’s perspective, providing the scheme is administered correctly, the reductions in council tax revenue are fully reimbursed via a grant claim to the DCLG. The risk of an increasing caseload therefore lies with government.
- 10.2 Under the new arrangements however local authorities will each receive an annual grant, calculated by DCLG, to cover the costs of the local scheme. As noted previously, the current understanding is that the grant awarded will equate to approximately 90% of the existing costs of the national scheme. Importantly, this amount will also be ‘delegated expenditure’ or ‘DEL’. This means that the amount awarded to each local authority is fixed and if caseloads increase, **the additional costs will need to be borne locally**. The risk of an increasing caseload therefore lies with individual local authorities.

The specific risks associated with the decision Council is asked to make and proposed actions to mitigate those risks are set out in the table below.

<i>Risk Identified</i>	<i>Likelihood</i>	<i>Impact</i>	<i>Risk Management Actions Planned</i>
Adverse economic conditions may result in council tax benefit caseloads (and discounts applied) being significantly greater than those assumed in the financial analysis presented	low	high	<ul style="list-style-type: none"> <li>• Detailed caseload data analysis has been undertaken</li> <li>• Risk is shared between Council and major preceptors</li> <li>• Initial scheme restricted to a one-year timeframe</li> <li>• Contingency in MTFS</li> </ul>
The Council’s financial settlement in respect of the grant to cover council tax benefit may be significantly below that assumed in the financial analysis presented	low	high	<ul style="list-style-type: none"> <li>• Overall solution is designed to be financially sustainable</li> <li>• Initial scheme restricted to a one-year timeframe</li> <li>• Contingency in MTFS</li> </ul>

<i>Risk Identified</i>	<i>Likelihood</i>	<i>Impact</i>	<i>Risk Management Actions Planned</i>
Interest groups decide to issue a legal challenge against the proposed new local Council Tax Support Scheme	very low	high	<ul style="list-style-type: none"> <li>• Simple scheme design in line with Government guidelines</li> <li>• Detailed caseload analysis has been undertaken</li> <li>• Eight week web-based consultation together with various 'roadshow' events undertaken in a cross-Leicestershire approach; consultation results reviewed on an ongoing basis and additional actions taken to ensure all stakeholder groups are represented</li> <li>• Equalities Impact Assessment performed</li> </ul>
Collection rates on the incremental billing for those receiving council tax benefits and also on the additional billings relating to empty and vacant properties is highly likely to be significantly below existing levels and may be below rates assumed in the financial assessment	low	high	<ul style="list-style-type: none"> <li>• (The financial assessment assumes a 20% non-collection rate in respect of empty and vacant properties)</li> <li>• Contingency in MTFS</li> </ul>
The short timescale, late changes and delays in the enactment of the Local Government Finance Bill may prevent the Council implementing the new operating procedures smoothly	low	high	<ul style="list-style-type: none"> <li>• Design of new local scheme of Council Tax Support based on existing parameters to minimise system and process changes</li> </ul>

## 11. **Knowing Your Community Equality and Rural implications**

The introduction of Council Tax Support will have a significant impact on certain sections of the community, in particular those of working age and not in work and those on low incomes.

These proposals do not have any financial implications for pensioners who are entitled to receive support with their Council Tax bill

11.1 The implementation of the proposed new scheme of Local Council Tax Support, based on reduced levels of funding will affect all working age claimants. In designing the scheme the Council has performed an Equalities Impact Assessment and has had regard to:

- Detailed analysis of the Council's caseload data
- Extensive consultation exercises performed with the public and other stakeholders, including housing associations and the voluntary sector
- Consultation with major preceptor partners

11.2 The mix of council tax benefit claimants is such that it is generally difficult to protect specific vulnerable groups, such as families with young children, or the disabled, as protecting these would result in a highly adverse impact on non-protected claimants.

11.3 In order to mitigate the impact of the scheme on other vulnerable groups a Discretionary Discount Fund has been created that will allow the Council to support the most vulnerable residents on a case by case basis. Details of this fund are set out at **Appendix B**.

11.4 Equality Impact Assessment is attached in **Appendix F**.

## 12. **Corporate Implications**

12.1 Introduction of the local scheme is likely to create additional demands on the Council's operations - particularly around dealing with customer queries and debt collection and recovery. Much of the additional activity can be attributed to the features of the local scheme and technical changes to council tax designed to deliver a financially sustainable arrangement. In recognition of the benefit they receive from this approach the major preceptors, Leicestershire County Council, and the Police and Fire Authorities, have agreed to contribute towards the Council's additional administration costs as outlined at **Appendix D**.

12.2 The changes to council tax benefits are part of a wider series of changes and reforms within the government's welfare reform agenda. This has a theme of consolidation and centralisation of rules based benefits and support, whilst discretionary benefits are localised or outsourced (with reduced budgets calculated from baseline spend at an agreed point in time).

12.3 As part of this agenda, the following changes will impact on the Council in terms of ownership and administration:

- Between 2013 and 2017, Housing Benefit (currently administered by the Council) will be phased out and help with housing costs will form part of a Universal Credit benefit that will be administered by the Department of Work and Pensions (DWP)
- From 2013, the Council's Discretionary Housing Payment (DHP) budget will only be available to support individuals with shortfalls in Housing Benefit and the Local Housing Allowance; therefore, if the Council wishes to provide support for individuals struggling with council tax payments (arising from the introduction of the local scheme or more generally) this will require the introduction of local arrangements.

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Background Papers: - Caseload data analysis prepared by consultants  
- Results of public consultation  
- Key correspondence with major preceptors

Contact Officer : Storme Coop, ext. 5706

Executive Member : Cllr Keith Lynch

**Appendices:**

- A. Proposed Scheme Details**
- B. Proposed Discretionary Discount Fund**
- C. Proposed Technical Changes to Council Tax**
- D. Savings calculation and funding details**
- E. Designing the new scheme**
- F. Equality Impact Assessment**

**COUNCIL TAX SUPPORT SCHEME****Introductory Notes**

The Council, in accordance with Section 13A of the Local Government Finance Act 1992 (c. 14), substituted by section 9 of the Local Government Finance Act 2012, requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of Council Tax payable by persons, or classes or persons, whom the authority considers are in financial need. This scheme, entitled the Council Tax Support Scheme (the scheme) complies with that requirement. Assistance under said scheme shall be referred to as Council Tax Support (CTS). The Council is under a further duty to comply with all the requirements set out in the Council Tax Reductions Schemes (Prescribed Requirements) Regulations and any other provisions prescribed by law.

**1) Introduction**

- a) Government legislation has abolished Council Tax Benefit (CTB) from 1 April 2013. Accordingly, all Councils are required to implement new arrangements to replace CTB. The new scheme is called the Council Tax Support Scheme (the scheme). This change is part of a wider set of welfare reforms currently being implemented and the scheme is intended to work closely within the framework of national welfare reform.
- b) The authorities below in 1 b (i) to 1 b (vii) have cooperated and shared best practice to develop the Scheme.
  - i) Blaby District Council
  - ii) Charnwood Borough Council
  - iii) Harborough District Council
  - iv) Hinckley and Bosworth Borough Council
  - v) Leicestershire Combined Fire Authority
  - vi) Leicestershire County Council
  - vii) Leicestershire Police Authority
  - viii) Melton Borough Council
  - ix) North West Leicestershire District Council
  - x) Oadby and Wigston Borough Council
  - xi) Rutland Unitary
- c) The authorities have devised and agreed this shared scheme to allow each Council to tailor its scheme locally to suit its community needs, while ensuring the scheme is effective, affordable and seeks to protect the vulnerable.
- d) The Government has determined that pensioners should be protected from the impacts of these reforms and has developed a prescribed scheme to ensure that pensioners are not adversely affected by these reforms. This scheme fully complies with the prescribed requirements.
- e) The Government has further provided a default scheme that will be applied to all Councils where that Council has not implemented its own CTS scheme by 31 January 2013. The provisions of the default scheme are such that it broadly prescribes to the requirements of the existing CTB scheme and would deliver similar outcomes for recipients. Whilst this would ensure that the impacts of the changes were minimised it would also mean that the Council and its preceptors would have suffered a loss in income equal to the cut in the Government grant in excess of 10% of prior CTB expenditure.

## 2) Aims

- a) The Council intends where possible to ensure that the scheme will operate in a consistent manner across Leicestershire and Rutland but will permit variation according to local needs and funding arrangements. In doing so the scheme ensures that:
  - i) Residents moving between authorities do not experience significant variations in the available assistance;
  - ii) Vulnerable persons are protected; and
  - iii) Work is incentivised.

## 3) Administration of the Scheme

- a) ***Administration of the scheme is set out in the Prescribed and Default Regulations. Unless specified otherwise, the scheme will be operated in full compliance with these regulations.***
- b) The scheme will include the regular monitoring of expenditure which will include reporting to:
  - i) The Councils 151 officer;
  - ii) The Councils management team;
  - iii) The precepting authorities.
- c) The Council may administer Housing Benefit (HB), other welfare payments and discretionary payments alongside the administration of the scheme.
- d) Personal data obtained by the Council for any lawful purpose may be used in the assessment and management of CTS entitlements.
- e) Personal data obtained by the Council for the purposes of processing or managing CTS and the scheme may be shared in relation to Housing Benefit, Discretionary Housing Payments or any other fund administered under section 13A of the Local Government Finance Act.
- f) Personal data obtained by the Council for the purposes of processing or managing CTS and the scheme may be shared with any other body where:
  - i) The data subject (or their representative) provides formal consent;
  - ii) It is in the beneficial interest of the data subject to do so;
  - iii) To prevent fraud;
  - iv) The law permits sharing of the data, (for example to prevent or detect a crime).
- g) Persons in receipt of CTS shall be deemed to be in receipt of a means tested entitlement for the purposes of any Council policy where entitlement under that policy was linked to the receipt of CTB.

## 4) Legislative Framework

- a) The following legislation and guidance are relevant to this scheme.
  - i) Local Government Finance Act 2012 – referred to as the ‘Act’
  - ii) Child Poverty Act 2010
  - iii) Equality Act 2010 (incorporating the Disabled Persons Act 1986)
  - iv) Housing Act 1996

- v) Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012 No.2885)– referred to as the ‘Prescribed Scheme’
- vi) Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 SI 2012 No.2886 – referred to as the ‘Default Scheme’
- vii) Housing Benefit Regulations 2006
- viii) Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006
- ix) Council Tax Benefit Regulations 2006 – referred to as the ‘CTB scheme’
- x) Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 – referred to as the ‘CTB pensioner scheme’
- xi) Housing and Council Tax Benefit (Decisions and Appeals) Regulations 2001 – referred to as the ‘Appeal Regulations’
- xii) Social Security Act 1992
- xiii) Local Government Finance Act 1992 and all subsequent legislation deriving from this Act.
- xiv) Taking Work Incentives into Account (DCLG, May 2012)
- xv) Vulnerable People – Key Local Authority Duties (DCLG, May 2012)

## **5) Savings Provision**

- a) Designing and writing the scheme is inherently complicated and there is a significant risk of omission and error that could lead to significant unintended consequences for both CTS recipients and Council finances. To mitigate and reduce these risks the Council adopts all regulations, provisions and schedules in the default scheme except where these are amended, deleted, supplemented or other provisions are made in this scheme. Furthermore, the Council will:
  - i) Maintain a schedule of the amendments made under paragraph 5a;
  - ii) Publish the scheme including any amendments on its website.

The ‘default scheme’ is the scheme prescribed in the Schedule to the Council Tax Reduction Scheme (Default Scheme) (England) Regulations 2012 SI No 2886, including any subsequent amendment to those Regulations or any re-enactment thereof, with or without amendments.

## **6) Scheme Amendments**

- a) Amendments to the scheme must be made and agreed at Full Council before the 31 January in any year to apply from the following 1 April.
- b) Any changes made under paragraph 6a may be applied from any date from 1 April or a later date as approved by the Council.

## **7) Explanatory Note**

- a) The appendices that follow are provided with the following summary scheme intentions. To make provision for:
  - i) The reduction in maximum liability that can be awarded below 100%;
  - ii) The removal of the Alternative Maximum Council Tax Reduction Scheme in respect of non pensioners;
  - iii) The setting of non dependant deductions in respect of non pensioners at rates other than defined in the default scheme;
  - iv) The inclusion of additional provisions required to ensure continuity in the treatment of War Pensions and War Widows Pensions for pensioners and non pensioners;



- v) Amendment to other rules to limit backdating or temporary absence for working age claimants.

### **Schedule of Scheme Amendments**

The following appendices provide for the changes to the default scheme approved by Full Council. In all cases amendments include the date when this amendment was approved and the date from which the amendment will be effective from. The full scheme will be published as required.

#### **Calculation Parameters**

Amendment	<b>Maximum Reduction</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Paragraph	<b>29 – Amendment</b>	
Description	<b>Maximum Council Tax Reduction amount under this scheme: pensioners and persons who are not pensioners</b>	

Insert

(1A In relation to a person who is not a pensioner, sub-paragraph (1) above shall have effect as if the words '91.5 per cent' were substituted for the words '100 per cent'

#### **Alternative Maximum Council Tax Reduction (Second Adult Rebate)**

Amendment	<b>Class F: Alternative maximum Council Tax reduction – persons who are not pensioners</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Paragraph	<b>18 – Deleted</b>	
Description	<b>Removal of Second Adult Rebate Scheme (non pensioners only)</b>	
Paragraph	18 - Deleted	
Amendment	<b>Alternative maximum Council Tax reduction under this scheme: pensioners and person who are not pensioners</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Paragraph	<b>31 – Amended</b>	
Description	<b>Retained for pensioners only</b>	

A: Delete the words 'and persons who are not pensioners' from the title to the paragraph

B: In sub-paragraph (1) delete the words 'or 18 (alternative maximum council tax reduction: persons who are not pensioners)

Amendment **Duty to notify changes of circumstances**  
Approved **28 January 2013** Applicable From **1 April 2013**  
Regulation **Regulation 115**  
Description **Requirement to report changes (non pensioners only)**  
Delete sub-paragraph (6) (b)

Amendment **Amount of reduction under this scheme: Classes A to F**  
Approved **28 January 2013** Applicable From **1 April 2013**  
Paragraph **32**  
Description **Amendment to regulation to remove mention of class F**

In the title amend  
**Amount of reduction under this scheme: Classes A to F**

To read  
**Amount of reduction under this scheme: Classes A to E**

A: In sub-paragraph (4) delete the words ' or F'

B: In paragraph 1 (a) of Schedule 4, delete the words 'or 18(2) (class F) (as the case maybe)'

Delete paragraph 49 of schedule 10

### **Non Dependant Deductions**

Amendment **Non dependant deductions: pensioners and persons who are not pensioners**  
Approved **28 January 2013** Applicable From **1 April 2013**  
Paragraph **30**  
Description **Non Dependent Deductions**

Insert

At the end of sub-paragraphs (2)(b) and (2)(c) of paragraph 30, prior to the closing punctuation mark in each case, insert 'X1/7'

**NB** This has been amended to tighten up/clarify the legislation. The DWP Default Scheme regulations refer to weekly amounts whereas Council Tax is actually based on a daily charge. So the insertion of

'x1/7' basically allows a daily rate to be applied to the calculation formula. It is purely a clarifying amendment.

### **War Pension and War Widow's Pension Additional Disregard Scheme**

Amendment	<b>Amounts to be disregarded in the calculation of income other than earnings: pensioners</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Regulation	<b>Schedule 6</b>	
Description	<b>Disregarded in full of War Pension and War Widows Pension (pensioners)</b>	

A. After paragraph 1 of Schedule 6, insert:

“(1A) The whole of any war disablement pension, war widow's pension or war widower's pension not disregarded under paragraph (1) above will be disregarded.”

B. After paragraph 20 of Schedule 8, insert:

“(20A) The whole of any war disablement pension, war widow's pension or war widower's pension not disregarded under paragraph (20) above will be disregarded.”

Amendment	<b>Sums disregarded in the calculation of income other than earnings: persons who are not pensioners</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Paragraph	<b>Schedule 8</b>	
Description	<b>Disregarded in full of War Pension and War Widows (non pensioners)</b>	

A In paragraph 20, delete sub-paragraphs (a) and (b)

B After paragraph 20 insert:

'20A – (1) Subject to sub-paragraph (2), the whole or part of any war disablement pension, war widower's pension not disregarded under paragraphs 1 and 2 above.

(2) The application of sub-paragraph (1) is subject to the authority deciding in its discretion that it should apply'

### **Other Changes**

Amendment	<b>Capital Disregards</b>	
Approved	<b>28 January 2013</b>	Applicable From <b>1 April 2013</b>
Regulation	<b>Schedule 10</b>	

Description        **Disregard of non pensioner capital**

In paragraph 49 amend from

'(1) Subject to sub-paragraph (2), where an applicant falls within class F...'

Amend to 'Deleted'

**NB** This is a follow up regulation which links to Second Adult Rebate. As we are removing this, this linked paragraph also needs amendment

Amendment        **Periods of absence from a dwelling**

Approved        **28 January 2013**

Applicable From    **1 April 2013**

Regulation        **Regulation 19**

Description        **Temporary Absence**

At the end of paragraph 19(2)(b) insert

'(iv) unless the person is a pensioner, he has not had more than two periods of temporary absence from the dwelling in the 52 weeks ending with the date on which the current period of temporary absence begins; and'

**NB** This is being changed to align this rule with Universal Credit and close a current loop hole. Because of the way the legislation is currently worded someone can be absent for a day and then reclaim again. By making this change to align to Universal Credit, the claimant will only be able to claim a maximum of 2 periods of temporary absence in a 52 week period

## Proposal for Discretionary Discount Scheme Funding

This document sets out proposals for the Leicestershire and Rutland scheme together with specific funding detail for each local authority.

<b>Name:</b>	<b>The Leicestershire and Rutland Council Tax Support Scheme - Discretionary Discount Scheme Proposal</b>
<b>Date:</b>	<b>6<sup>th</sup> September 2012</b>
<b>Author:</b>	<b>Localisation of Council Tax Programme</b>
<b>Release/Version:</b>	<b>Draft V2.0</b>

This document forms part of the Leicestershire and Rutland Council Tax Support Scheme.

This document has been distributed to:

<b>Name</b>	<b>Title</b>	<b>Date</b>	<b>Version</b>
Leicestershire County Council	Chris Tambini, Jason Firth and James Rossell	05.09.12	V2.0
Leicestershire Fire and Rescue Service	Trevor Peel	05.09.12	V2.0
Police Authority	Paul Dawkins	05.09.12	V2.0
DCEX	District Chief Executives	06.09.12	V2.0
RCC	Rutland County Council Senior Management Team	06.09.12	V2.0
LCC	Leicester City Council Senior Management Team	06.09.12	V2.0
Preceptors	Leicestershire County Council, Leicestershire Police Authority, Leicestershire Fire and Rescue Service	11.09.12	V2.0

## Background

Under existing arrangements, residents can be eligible for help with their housing costs from three principal areas:

- Crisis Loans
- Social Fund Loans
- Discretionary Housing Payments

Crisis Loans can help families or individuals cover immediate short term needs (such as residential charges for a hostel), while Social Fund loans tend to be targeted towards ongoing living assistance (such as household equipment). Discretionary Housing Payments are very much focussed on supporting the payment of rent.

Discretionary Housing Payments (DHPs) are currently administered by local authorities, and this arrangement will continue.

Appendix A describes individual assistance measures available to residents in more detail.

Fundamentally, while the detail of future national funding to assist vulnerable residents with their housing costs is not yet available, at best it is likely to be restricted to existing levels. However, the impact on vulnerable residents will be increased significantly due to the impact of the new Local Council Tax Schemes.

**Overall, it is likely that demand for financial support for residents will continue in 2013, and there is an expectation that this demand will increase as a series of changes to Welfare and Benefits rolls out.**

In response to the above, Leicestershire and Rutland authorities are therefore proposing that a new Discretionary Discount is created to support hardship related to the new Local Council Tax Schemes.

### **Duration**

It is proposed that a Discretionary Discount, operating in accordance with the principles set out below, is agreed amongst billing authorities and major preceptors for the financial years 2013/14 to 2015/16 inclusive,

### **Eligibility**

The Discretionary Discount will be administered through the use of 'eligibility' criteria, in similar manner to the existing DHPs. A detailed policy setting out the proposed eligibility criteria for the new fund is set out at Appendix B.

### **Administration**

Administration of the new fund will be undertaken by Unitary and District Council staffs who currently administer the existing DHPs. This will be undertaken alongside the administration of the new council tax arrangements. Appropriate functionality to record Discretionary Discounts is being developed by council tax system software providers.

### **Funding**

Funding for the new Discretionary Discount will be shared amongst billing authorities and major preceptors, in proportion to individual precept amounts. The initial proposal is that the total Discretionary fund will be 1% of the total council tax benefit paid during 2011/12 by each billing authority. The proposed contributions are tabulated below for each billing authority and preceptor.

Justification of proposal:

The nearest equivalent fund existing at present is that for Discretionary Housing Payments. DWP provide 0.5% subsidy to each local authority based on the total benefit paid out in the preceding year. Local authorities are expected to spend the whole of this amount; further, authorities also have the ability to make additional payments and may make payments totalling up to a maximum of 2.5 times the subsidy awarded (ie. equivalent to 1.25% of the benefit paid out). On this basis a total contribution of 1% of the council tax benefit paid appears reasonable

### **Review and monitoring of payments**

At the time of drafting this proposal it is not clear which resident groups are likely to seek assistance in respect of council tax payments. The funding proposals should therefore be considered alongside the proposed arrangements for the ongoing review and monitoring processes that will be put in place with the Fund.

In general, payments will be monitored monthly in the first year of the Local Council Tax Scheme. More detailed monitoring arrangements will be proposed when council tax system software to manage payments is available.

### **Funding allocations**

<b>Total council tax benefits payments 2011/12</b>	
Total council tax benefit paid out in 2012	1% of the total council tax benefit paid out = PROPOSED DISCRETIONARY FUND

Rutland	£1,871,717	Rutland	£18,720
Blaby	£4,630,678	Blaby	£46,310
Charnwood	£9,297,088	Charnwood	£92,970
Harborough	£3,519,268	Harborough	£35,190
Hinckley and Bosworth	£5,831,863	Hinckley and Bosworth	£58,320
Melton	£2,544,301	Melton	£25,440
NW Leicestershire	£5,895,084	NW Leicestershire	£58,950
Oadby and Wigston	£3,095,715	Oadby and Wigston	£30,960

Source: Cell 144 of Housing Benefit and Council Tax Benefit subsidy 2011/12 as completed by each Billing Authority

Contributions to the fund will be shared between local authorities and preceptors in shares proportional to their precept, as set out below:

<b>Rutland</b>	
1% of 2011/2012 Council Tax Benefit payable	£18,720
RCC share of precept 86.60%	£16,211
LCC Share of precept	Not applicable
LPA Share of precept 10.25%	£1,918
CFA Share of precept 3.15%	£589

<b>Blaby</b>	
1% of 2011/2012 Council Tax Benefit payable	£46,310
Blaby share of precept 14.13%	£6,543
LCC Share of precept 70.74%	£32,759
LPA Share of precept 11.57%	£5,358
CFA Share of precept 3.55%	£1,644

<b>Charnwood</b>	
1% of 2011/2012 Council Tax Benefit payable	£92,970
Charnwood share of precept 11.92%	£11,085
LCC Share of precept 72.56%	£67,463
LPA Share of precept 11.87%	£11,035
CFA Share of precept 3.64%	£3,384

<b>Harborough</b>	
1% of 2011/2012 Council Tax Benefit payable	£35,190
Harborough share of precept 13.62%	£4,792
LCC Share of precept 71.17%	£25,044
LPA Share of precept 11.64%	£4,096
CFA Share of precept 3.57%	£1,256

<b>Hinckley &amp; Bosworth</b>	
1% of 2011/2012 Council Tax Benefit payable	£58,320
H & Bosworth share of precept 10.55%	£6,151
LCC Share of precept 73.70%	£42,981
LPA Share of precept 12.05%	£7,027
CFA Share of precept 3.70%	£2,157

<b>Melton</b>	
1% of 2011/2012 Council Tax Benefit payable	£25,440
Melton share of precept 13.55%	£3,447
LCC Share of precept 71.22%	£18,118
LPA Share of precept 11.65%	£2,963
CFA Share of precept 3.58%	£910

<b>North West Leicestershire</b>	
1% of 2011/2012 Council Tax Benefit payable	£58,950
NWL share of precept 14.57%	£85.89
LCC Share of precept 70.38%	£41,489
LPA Share of precept 11.51%	£6,785
CFA Share of precept 3.53%	£2,080

<b>Oadby and Wigston</b>	
1% of 2011/2012 Council Tax Benefit payable	£30,960
OWBC share of precept 13.57%	£4,201
LCC Share of precept 71.21%	£22,046
LPA Share of precept 11.65%	£3,606
CFA Share of precept 3.57%	£1,105



## Discretionary Discount Scheme – proposed eligibility criteria

<b>Name:</b>	<b>The Leicestershire and Rutland Council Tax Support Scheme - Discretionary Discount Scheme Proposal and Policy</b>
<b>Date:</b>	<b>3rd September 2012</b>
<b>Author:</b>	<b>Leicestershire and Rutland Welfare Practitioners Group</b>
<b>Release/Version:</b>	<b>Draft V4.0</b>

### Approvals

This document forms part of the Leicestershire and Rutland Council Tax Support Scheme. The following people are points of contact for the scheme and are the point of contact for the approval of the scheme within each authority

<b>Name</b>	<b>Authority</b>	<b>Date</b>
Martyn Bowen	Melton BC	3.9.2012
Leigh Butler	Hinckley & Bosworth BC Harborough DC North West Leicester DC	3.9.2012
Jason Firth	Leicestershire County Council	3.9.2012
Andrea Grinney	Rutland County Council	3.9.2012
Caroline Jackson	Leicester City Council	3.9.2012
Daren Nolan	Oadby & Wigston BC	3.9.2012
Graham Perkins	Blaby DC	3.9.2012
David Platts	Charnwood BC	3.9.2012
James Rossell	Leicestershire County Council	3.9.2012
Leila-Jane Wilson	Programme Manager Localisation of Council Tax Programme	6.9.2012

This document has been distributed to:

<b>Name</b>	<b>Title</b>	<b>Date</b>	<b>Version</b>
LALAT	Chief Accountants group	08-08-12	V2.0
WRPG	Welfare Reform Practitioners Group	15-08-12	V3.0
DCEX	District Chief Executives	06-09-12	V4.0
RCC	Rutland County Council Senior Management Team	06-09-12	V4.0
LCC	Leicester City Council Senior Management Team	06-09-12	V4.0
Preceptors	Leicestershire County Council, Leicestershire Police Authority, Leicestershire Fire and Rescue Service	11-09-12	V4.0

*Revision History*

Version	Date	Summary of Changes
1.0	30.5.2012	First issue.
2.0	28.6.2012	Revised following comments from WPG
3.0	15.8.2012	Revised following comments from LALAT
4.0	3.09.2012	Revised following inclusion of S13A matters

## 1. Background

- 1.1 The Leicestershire, Leicester City, Fire, Police & Rutland authorities have co-operated and shared best practice to develop a shared Council Tax Support Scheme. The group has devised a shared Discretionary Discount Policy/Guide to ensure that the most vulnerable members of the community are protected in line with the requirements of the government's localisation of Benefits, under which from April 2013, Councils must have in place local schemes for the administration of the scheme which will replace the existing Council Tax Benefits Scheme.
- 1.2 This change to local taxation benefits systems is amongst the first of a very wide range of changes to the national welfare benefits framework which begins in earnest from next year.
- 1.3 The government is making a number of changes from April 2013 in relation to Council Tax exemption classes A and C and also ending the current scheme for council tax benefit in favour of a Local Council Tax Discount. The Council therefore intends to set up a discretionary Local Council Tax Discount Scheme to offset the most severe impacts of these reforms on vulnerable persons
- 1.4 The Discretionary Council Tax Support Scheme will operate along the lines of the existing Discretionary Housing Payments policy and will permit officers the discretion to provide reductions in Council Tax under the policy from 0% to 100% of the remaining Council Tax liable amount.
- 1.5 The scheme will be locally funded but will seek a contribution from precepting authorities to offset the full cost of the schemes operation. The scheme will be subject to a budget cap each year set by the Council.

## 2. Legislative Framework

- 2.1 The following legislation and regulations are relevant to this document:
  - i. The Local Government Finance Act 2012
  - ii. The Local Government Act 1992 Section 13A(2)
  - iii. The Leicestershire & Rutland Local Council Tax Support Scheme 2012
  - iv. Child Poverty Act 2010
  - v. Equality Act 2010 (incorporating the Disabled Persons Act 1986)
  - vi. Housing Act 1996
  - vii. Armed Forces Covenant
  - viii. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
  - ix. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme
  - x. Social Security Act 1992

### **3. Objectives**

- 3.1 This policy aims to set up a local Council Tax discount scheme to support local persons experiencing hardship and who are unable to pay their Council Tax. The discount will be known as the Discretionary Council Tax Support Scheme but will operate under the legal framework outlined in Section 13A of the Local Government Finance Act 1992.
- 3.2 The government have prescribed a national pension age scheme that will ensure that pensioners are not worse off under the local council tax support scheme.
- 3.3 The government have not prescribed any vulnerable groups, having regard to local authorities' defined responsibilities, in relation to, and awareness of the most vulnerable groups and individuals in their areas through an Equality Impact Assessment.
- 3.4 The Discretionary Discount Policy will specify those individuals and groups who are eligible to access the fund and explain the claim process.
- 3.5 The Discretionary Discount Policy will be mindful of the directive to incentivise work. In doing so reduce worklessness and dependency on benefits in line with the government's expectation.
- 3.6 It should be noted that where the Council has a discretionary power, it must not fetter its discretion by having a set of rules that are inflexible. Each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this policy.

### **4. Criteria**

- 4.1 Fundamental to The Discretionary Discount Policy is a clear indication of the groups or individuals that can be considered eligible to claim additional council tax support from the Discretionary Discount Scheme.
- 4.2 The fund has financial limitations and as such awards can only be made based on eligibility and having regard to the level of funding available or remaining within the Discretionary Discount Scheme each financial year.
- 4.3 Before any award will be considered, the taxpayer must require further financial assistance with Council Tax due to the conditions detailed in section 5, Eligibility.
- 4.4 Unless specified, all criteria and conditions that apply to The Leicestershire & Rutland Local Council Tax Support Scheme 2012, will also apply to The Discretionary Discount Policy.

### **5. Equalities**

- 5.1 The Council is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council and equality of access to Council Services. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.
- 5.2 A number of groups have been defined as being eligible to submit a claim for Discretionary Discount. The groups are listed in the table below:

#### **Types of vulnerable people**

The applicant or household or a dependent child in receipt of the middle or higher rate of Disability Living Allowance (DLA)
The applicant or household is a disabled adult living in supported living accommodation who have carers and are unable to work due to their health
The applicant or household is in receipt of Employment Support Allowance (ESA) with support component
The applicant or household is a care leaver up to the age of 22 years
The applicant or household is deemed vulnerable through drug or alcohol dependency who are attending a rehabilitation programme
The applicant or household has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation, inclusive of forced marriages
The applicant or household is a foster carer and has current foster child placements
The applicant or household has dependent children under the age of 5 and is living on income support
Applicant or households who provide care who are single or a couple, and have no other income (other than income support) where they are in receipt of carers allowance
The applicant or household is a foster carer (child or adult) and is in between foster care placements
The applicant or household has parental care responsibility for non-resident children
The applicant or household is a hostel leaver where they were resident in a hostel engaging with support while resident. Minimum period of hostel residency is 3 months

5.3 There may be a number of vulnerable individuals who do not fall into any of the above categories. In this event awards may be considered due to severe financial hardship, please refer to section 6 below.

## **6. Severe Financial Hardship**

- 6.1 Applications will be accepted on the basis that the applicant or household would suffer severe financial hardship if financial assistance were not given.
- 6.2 Individuals in this group will not be defined but need to be able to demonstrate their circumstances and have exhausted other sources of income that are available to them.
- 6.3 Each case will be considered on its own merits.
- 6.4 Care will be taken to ensure the applicant or household has access to independent financial advice and support.
- 6.5 Examples of applicant or households who may potentially be awarded Discretionary Discount support are:
- i. Recently bereaved and suspension of other benefits have caused a disruption to income
  - ii. Terminally ill and unable to contribute to the household income
  - iii. Recovering from a serious illness and unable to contribute to the household income
  - iv. Recently released from prison and under probation
- 6.6 Applications for Discretionary Council Tax Support (DCTS) should be one of last resort. Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming DCTS.

Applicants will need to ensure they are able to satisfy the Council that they have taken all reasonable steps to resolve their own situation prior to application.

6.7 Applications will be considered if the above apply and:

- i. There is evidence of financial hardship or personal circumstances that justify an award
- ii. The applicant or household has supplied all evidence requested by the Local Authority in respect of their claim for the Local Council Tax Support Scheme
- iii. The applicant or household must have applied for any appropriate discount or exemption and supplied any evidence requested by the Local Authority in respect of that application
- iv. The applicant or household does not have access to any other financial assets that could be realised to pay the council tax
- v. The applicant or household must not be avoiding outstanding council tax due to wilful refusal or culpable neglect
- vi. The Council's finances must allow for an award to be made

## **7. How to claim**

- 7.1 A claim should be made in writing or on line using the approved claim form together with supporting evidence as required.
- 7.2 Claims can also be made by a referral process. Please see Section 10, Referrals from other sectors.
- 7.3 The applicant must be the person liable to pay the council tax, or be their representative with authority to act on their behalf i.e. Power of Attorney
- 7.4 Claims can only be made to and accepted by the billing authority who issues the taxpayer their Council Tax Demand Notice.
- 7.5 If an applicant or household needs advice and support to complete a claim form, the applicant or household will be signposted to an appropriate service that offers support relevant to the needs of the applicant or household.
- 7.6 The applicant must set out the reasons for applying including explaining any special circumstances or hardship being experienced.

## **8. Information required to support a claim**

8.1 Evidence will be required to substantiate a claim from the Discretionary Discount.

Evidence can include, but is not limited to:

- A household income statement; using a prescribed form
- A household expenditure statement; using a prescribed form
- Supporting evidence may be requested such as utility bills
- Evidence of seeking debt advice, if appropriate

8.2 Evidence may be requested that is relevant to the nature of the Claim i.e. evidence of illness. It should be noted that no costs will be borne by the Authority in circumstances of this nature.

8.3 Failure to provide supporting information and evidence that is requested may lead to a refusal.

- 8.4 Care will be taken by staff to ensure that the applicant or household is treated fairly and respectfully and that only relevant information and evidence is requested.
- 8.5 All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 1998.
- 8.6 Where the Council requires additional information or evidence it will write to the applicant requesting the information is supplied within one calendar month.
- 8.7 The applicant is required to report any changes in their circumstances or of the circumstances of household members immediately in writing to the Council. A failure to report changes may lead to a loss of DCTS, result in an overpayment which will be recoverable from the Council Tax account and lead to prosecution where appropriate.

## **9. Notice of decision**

- 9.1 The Council will provide a written notice of its decision to the applicant or their representative. The decision notice will set out:
- i) The amount of the award (if any)
  - ii) The period of the award (if any)
  - iii) Provide details of how to appeal or obtain more information about the decision
  - iv) Provide details of how the award (if any) will be made

Provide a summary of the factors considered in reaching the decision.

- 9.2 On the provision of all satisfactory requested information, a decision will be made where practicable within 14 working days.

## **10. Referrals from other sectors**

- 10.1 The billing authority will accept referrals from:

- Leicester City, Leicestershire County Council, Social Services Team
- Leicester, Leicestershire & Rutland Combined Fire Authority
- Leicestershire Policy Authority
- Third sector organisations i.e. Citizens Advice Bureau, welfare rights

- 10.2 The approved referral form should be completed and returned to the relevant billing authority.

- 10.3 The Leicestershire and Rutland billing authorities and the organisations above have a Service Level Agreement (SLA) in place to ensure the agreed process is adhered to.

- 10.4 Referrals will be monitored and reviewed in accordance with the SLA.

## **11. Alternative sources of financial assistance**

- 11.1 Various alternative sources of financial assistance exist with the public, private and voluntary sectors, if support from The Leicestershire and Rutland Council Tax Support Discretionary Discount is not awarded, applicant or households will be signposted to alternative sources of financial assistance.

## **12. Debt Advice**

- 12.1 It is recognised that debt and poverty are linked. In most cases the billing authority will expect the applicant or household to seek debt/money management advice as a long term solution to financial problems.
- 12.2 Working age applicant or households are also expected to move into work if they are able to reduce their dependency on support. With this in mind applicant or households should receive more income from work than out of work. Work incentives will be a factor when determining awards from The Leicestershire and Rutland Council Tax Support Discretionary Discount Scheme.
- 12.3 Billing Authorities will signpost applicant or households to debt advice service in their area, evidence of taking and adhering to advice may be requested from the applicant or household when making an application for Leicestershire and Rutland Council Tax Support Discretionary Discount Scheme.

## **13. Backdating**

- 13.1 Applications for Discretionary Discount may be backdated up to 1 calendar month from the date the written application is received where continuous good cause exists throughout the period for the delay in making the application

## **14. Determining awards**

- 14.1 The Council will consider each application on its own merits. This will ensure that each application is treated in an open and consistent manner, whilst considering individual circumstances.
- 14.2 The Council will be under no duty to assess applications not made in the approved manner.
- 14.3 Where information or evidence requested has not been received within one calendar month, the Council will determine the application on the basis of the evidence and information in its possession. The Council will make an adverse inference in respect of any information or evidence not supplied by the applicant within the one calendar month time limit.
- 14.4 Nothing in this policy shall permit the Council to reduce the Council Tax charge for any day to less than NIL.

*DCTS may only be awarded in respect of Council Tax liability.*

- 14.5 The order of discounts will be maintained in line with the Local Government Finance Act; therefore the maximum amount of DCTS that can be claimed for any day will be net of other discounts and reductions already awarded.
- 14.6 Awards will have a defined start and end date. This information will be provided to the applicant or household when the decision is made.
- 14.7 Awards may be a one off payment, an award for a short period of time or until the applicant or households circumstances change or for a full financial year. This will be detailed when a decision is made.

14.8 Awards will stop immediately if the applicant or household or their representative has misrepresented or failed to disclose a material fact, fraudulent or otherwise. The authority may look to recover any overpayment of award but instances of proven fraudulent activity will seek to recover in all cases.

## 15. Method of Payment

15.1 Awards will be credited directly to the applicant or households/liable persons' council tax account. This will have the effect of reducing the council tax liability.

15.2 Taxpayers may find that the award does not reduce their council tax to zero. If taxpayers have council tax to pay, they should contact the recovery section as early as possible and make arrangements to pay the sum due.

## 16. Appeals

16.1 Applicants may appeal against a decision within one calendar month of the decision notice where:

- i They have not been awarded DCTS for a day; or
- ii Where they feel the award should be increased.

16.2 Appeals must be:

- i Be submitted in writing;
- ii Received at the Council offices within one calendar month of the date of the decision notice;
- iii Signed by the applicant;
- iv Outline the grounds for appeal;

16.3 Applicants will not have the right of appeal:

- i. Where their appeal is received by the Council more than one calendar month after the date of the decision notice;
- ii. Where the Council has already made a determination of appeal in respect of the matter;
- iii. For any day on which they have received 100% discount or exemption;
- iv. For any request to backdate the award for more than one calendar month from the date of application;
- v. Where the Council has no remaining budget provision;
- vi. Where the Council has made an adverse inference decision;
- vii. In any case where the Council was under no duty to make a decision.
- viii. Local Council Tax Support scheme suspensions where there is doubt about entitlement
- ix. Shortfalls caused by the recovery of overpaid Local Council Tax Support

16.4 Any appeal under this scheme will be determined within one calendar month of receipt of the appeal or as soon as reasonably practicable.

16.5 Appeal decisions are final and may not be further challenged except where legislation permits. The Council will write to the applicant once their appeal has been considered and will explain:

- i The amount of the award (if any);
- ii The period of the award (if any);
- iii Provide details of how the award (if any) will be made;
- iv Provide a summary of the factors considered in reaching the decision.



## **17. Recovery of an overpaid discretionary discount award**

17.1 The Council may recover any overpayment of Discretionary Discount that has been paid by removing the discount from the account.

## **18. Fraud**

18.1 The Council may always correct any award made under this scheme where fraud or error has occurred.

18.2 Where a customer has failed to provide information or has knowingly supplied false or misleading information the Council reserves the right to withdraw any award made under this scheme.

18.3 Furthermore, the Council reserves the right to investigate any the alleged offences, to levy penalties in accordance with the law and to prosecute anyone who has committed a criminal offence.

## **19. Data Sharing and Fair processing**

19.1 The Council may use any evidence and information supplied to it in respect of DCTS to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.

19.2 The Council take parts in data matching exercises as part work to assist in the prevention and detection of fraud. Data matching involves comparing sets of our data, such as council tax or benefit records against other records held by the Council or other bodies to see how far they match. Data matching allows potentially fraudulent claims, reductions and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out. The processing of personal information by the Council for data matching exercises is carried out in accordance with the Data Protection Act 1988; specifically under section 29 of that act. This means the Council does not require the consent of the individuals concerned

## **20. Publicity**

20.1 The Leicestershire and Rutland Council Tax Support Discretionary Discount will be publicised across the region.

20.2 The following methods of communication may be used:

- Leaflets and posters
- Information with decision notices for the Local Council Tax Support Scheme where there is a shortfall
- Face to face and verbal when visiting or telephoning the council offices
- Information on billing authority websites
- Information for 3<sup>rd</sup> sector organizations and referrers
- Claim forms available to download or complete online
- Information with council tax reminders notices where the taxpayer is in receipt of Local Council Tax Support

## **21. Administration**

21.1 Applications will be subject to the billing authority's usual quality control procedures

and audit.

21.2 Home visits will be made available to applicant or households who are unable to attend the council offices and have no-one else to assist them.

21.3 Awards will be recorded and reported on monthly basis to Senior Management and to precepting authorities. Statistical information will be made available on the billing authorities website, personal data i.e. individuals names and addresses will be withheld and not published in accordance with The Freedom of Information Act 2000.

21.4 Reports will record the following: for both successful and unsuccessful claims per financial year:

- Name of applicant or household
- Address of applicant or household
- Ward of applicant or household ( if relevant )
- The start/end date of the award
- The amount of the award
- The reason for the award/refusal/eligibility criteria
- Equality data to monitor the effectiveness of the EIA

21.5 Billing authorities may from time to time conduct a survey of all applicants to seek opinions, satisfaction levels and to shape the scheme for future years.

## **22. Policy Review**

22.1 The Leicestershire and Rutland Council Tax Support Discretionary Discount Policy/Guidance will be reviewed annually by 31<sup>st</sup> January each year.

22.2 Any major changes will be subject to consultation in accordance with best practice.

22.3 Leicestershire and Rutland Council Tax Support Discretionary Discount Policy will be published and available to view on billing authorities' websites.

## **23. Budget considerations**

23.1 *The Leicestershire and Rutland Council Tax Support Discretionary Discount Scheme will have a budget set each financial year for each local authority. This will be set in agreement with and with a contribution from major precepting authorities*

23.2 Once available funds have been exhausted from the Discretionary Discount budget, no further awards will be made until a new financial year.

## **24. Legislation**

24.1 Awards under this scheme are made in line with the Local Government Finance Act as outlined below:

- i) Section 13A and 76 Local Government Finance Act 1992 – The award of discretionary discounts.
- ii) Section 4 Local Government Finance Act 1992 - Dwellings may be exempt from Council Tax if they fall within one of the specified classes.
- iii) Section 11 Local Government Finance Act 1992 - The amount of Council Tax payable may be subject to a discount under where there is no resident, or all but one of them fall to be disregarded.

- iv) Section 13 Local Government Finance Act 1992 - The amount may be reduced where it is occupied by disabled person(s).

**PROPOSED TECHNICAL CHANGES IN COUNCIL TAX**

The Council will take advantage of proposed technical changes in council tax and resolve to set discounts and exemptions on empty properties and second homes as follows:

- Class A - Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to 12 months)
  - DISCOUNT 50%
- Class C - A vacant dwelling, i.e. empty and substantially unfurnished (up to 6 months)
  - DISCOUNT 100% for the first month
  - DISCOUNT NIL % for subsequent months
- Discount on Second Homes
  - DISCOUNT NIL %

### Funding details for Council Tax Discretionary Fund

<b>Hinckley &amp; Bosworth</b>	
<b>1% of 2011/2012 Council Tax Benefit payable</b>	<b>£58,316</b>
HBBC share of precept 13.62%	£6,151
LCC Share of precept 71.17%	£42,981
Leicestershire Police Authority Share of precept 11.64%	£7,027
Combined Fire Authority Share of precept 3.56%	£2,157

### Administration Costs

As previously identified the introduction of the local scheme is likely to create additional demands on the Council's operations particularly around dealing with customer queries, and debt collection and recovery. Much of the additional activity can be attributed to the features of the local scheme and technical changes to council tax designed to deliver a financially sustainable arrangement. In recognition of the benefit they receive from this approach the major preceptors, Leicestershire County Council, and the Police and Fire Authorities, have agreed to contribute towards the Council's additional administration (staffing) costs which for Hinckley & Bosworth equates to approximately 1.0fte or £xxxx per annum

### Funding details for Additional Staffing Costs

<b>Hinckley &amp; Bosworth Borough Council – Additional Staffing Costs</b>	
<b>Hinckley &amp; Bosworth Borough Council</b>	<b>£2,363</b>
Leicestershire C. C.	£16,509
Leicestershire Police Authority	£2,699
Fire & Rescue Authority	£829
<b>Total</b>	<b>£22,400</b>

## DESIGNING THE NEW LOCAL COUNCIL TAX SUPPORT SCHEME

### Background to the current Council Tax Benefit scheme

The present Council Tax Benefit scheme has been in place since the introduction of Council Tax in 1993. It is a national scheme administered by local authorities but prescribed in extensive detail by the DWP.

Claimants who receive the DWP means-tested benefits (income-based Jobseekers' Allowance, Income Support, income-related Employment & Support Allowance and Pension Credit that includes the Guarantee Credit) are entitled to maximum help with their Council Tax without further means testing; they are "passported" to full benefit (subject to any contribution needed from other people in their household). Others can receive help on the basis of a complex means test, assessed by the Council that provides a level of help proportionate to the claimant's circumstances and income. Council Tax Benefit pays the full liability for Council Tax for the poorest claimants.

Local authorities are, to all intents and purposes, fully funded by the DWP for their council tax benefit expenditure; local authorities therefore do not carry the risk of changing caseloads or changes in the level of deprivation

Local authority administration of council tax benefit is combined with the administration of the very similar Housing Benefit scheme. As local authorities see it, council tax benefit for tenants is administered painlessly on the back of Housing Benefit. The assessment for owner-occupiers stands alone and is a real administrative cost. The DWP pays an administration grant towards the cost of administering housing benefit and council tax benefit.

In 2011/12 Hinckley & Bosworth Borough Council paid around £5.8m in Council Tax Benefit. At any point in the year around a 7,100 of households are receiving housing and council tax benefit. A proportion of these receive full benefit for the whole financial year but many receive less than full benefit or receive benefit for only part of the year so have a reduced bill to pay.

### Designing the New Local Council Tax Support Scheme

#### Design issues and constraints

The key issues and constraints facing local authorities in designing their local council tax support schemes were, and remain:

- At the time of designing, costing and consulting on a local scheme the detailed supporting legislation had yet to be agreed
- The funding to be provided for the new provision will be cut by an envisaged 10%, although full details of this are not yet available
- Council tax collection from those households that receive partial council tax benefit is already more difficult than from those with incomes above the benefit threshold; the changes will mean that council tax collection will be even more challenging
- The Government will not allow local authorities complete freedom in the design of their schemes and have stipulated that the elderly (pensioners) are to be protected;

around 56% of Hinckley & Bosworth Borough Council caseload are classed as elderly

- The risk of increases in caseloads is transferred to local authorities; unlike now, funding will be determined in advance, not based on actual spend.
- As the Government is also abolishing Housing Benefit, subsuming it gradually into Universal Credit from October 2013, and into Pension Credit from October 2014, local authorities will not be able to administer their new schemes as efficiently as at present.
- The new scheme will need to be up and running, with existing cases assessed by early March 2013 so that claimants receive rebated bills where appropriate; the timescale for designing, consulting on and implementing a new scheme is therefore extremely challenging.
- If the Council doesn't introduce a local scheme by the due date then a default scheme developed by the DCLG will apply; as this will mirror the current DWP scheme in all material effects, it will lead to costs similar to those currently incurred and lead to a budget shortfall for the Council and the major preceptors - Leicestershire County Council and the Police and Fire Authorities
- The scheme is being introduced in advance of the introduction of Universal Credit which will provide potentially reduced income for many of those also receiving Council Tax.
- The risk of increased demand resulting from higher take up, increased numbers needing assistance or existing claimants' incomes reducing are transferred from central government to local authorities
- The amount paid for people of pension age cannot be reduced so the funding cuts will have a substantial impact on working age claimants - as a result of protecting pensioner claimants the percentage cut is therefore higher for working age claimants

The cost of designing and implementing a local scheme to replace the existing Council Tax Benefit scheme is unknown but significant. Although the Government has agreed to provide funding to meet the cost of the changes there is no indication of the final level of DCLG funding to be provided.

## HBBC Full Equality Impact Assessment Form

### Localisation of Council Tax Benefit Consultation – Equality Impact Assessment

#### **A. Outline: What is the purpose of this policy? (specify aims and objectives)**

Localisation of Council Tax Benefit is part of a programme of national policy change to the welfare system aimed at addressing the rising cost of welfare.

From 1<sup>st</sup> April 2013, all Councils will be required to establish a local scheme for Council Tax Support (CTLS) to replace the nationally designed Council Tax Benefit Scheme. These changes will reduce the level of funding received by Councils to deliver the scheme (by approximately 10%) and allow the Council to decide who to financially support, outside prescribed elements which includes protecting support received by pensioners. The scheme itself must be approved and in place by 31<sup>st</sup> January 2013. The Local Government Finance Bill imposes a duty on billing authorities (Hinckley & Bosworth BC) to consult with major precepting authorities and such other persons as it considers having an interest in the scheme. Major precepting authorities in Leicestershire are Leicestershire County Council, Leicestershire Police Authority and Leicestershire Fire Authority.

This policy is intended to replace the current Council Tax Benefit Scheme. This must be in place by 1<sup>st</sup> April 2013 as Council Tax Benefit will be abolished from this date. It must be stressed that the Government is attempting the most significant changes to welfare that have been seen for at least 30 years.

The current system 'Council Tax Benefit' is a national means tested scheme. Claimants may get Council Tax Benefit if they are liable for council tax and their income and capital (savings and investments) are below a certain level. The benefit is income-related (means tested) and anyone who is liable for council tax can apply, irrespective of whether they are working, unemployed, living in rented accommodation or own their own home. Decision making is devolved to Billing Authorities with funding paid by the Department for Works and Pensions from their annually managed expenditure. In essence this means that the Council is re-imbursed for 100% of its spend.

In future funding for a localised scheme will be paid by the Department for Communities and Local Government (DCLG) from the Department Expenditure Limit budget. This means each Council will receive a fixed grant regardless of its spend.

Whilst the Government expect to reduce their expenditure by 10% (estimated £583,000 for Hinckley & Bosworth), they also require that Councils do not pass any of such savings required to those of Pension Age. That decision means that the burden falls disproportionately upon those of Working Age,

In accordance with DCLG proposals, a replacement scheme must be adopted by 31<sup>st</sup> January 2013 to commence from 1<sup>st</sup> April 2013. Councils who are not able to comply will be obliged to adopt the default scheme. In practice, the default scheme mirrors the existing Council Tax Benefit but with a 10% cut in funding to be met from other sources.

The Government has stated that it will protect low income pensioners as they have a fixed income and can't be expected to work to increase their income in the same way that a working age person can. Of the caseload for Hinckley & Bosworth BC; approximately 56% are pensioners and 44% are working age; therefore the impact on working age claimants will be disproportionate. They will bear the burden of the savings applied to the scheme.

The Government has also instructed that vulnerable groups should be protected in the same way as pensioners. The Government has not defined, and does not intend to define, any particular groups. It is therefore up to each local authority, having regard to local needs and knowledge of their population, to identify the most vulnerable in their communities.



The Local Council Tax Support Scheme will deliver the replacement for Council Tax Benefit.

The Leicestershire and Rutland Council Tax Support Scheme - Discretionary Discount Scheme will provide additional support for vulnerable groups.

As part of the Council Tax Local Scheme Council Tax empty property exemptions will be reviewed as these will be deemed as discounts from 1<sup>st</sup> April 2013.

Class A (property requiring structural repairs) discount will be awarded for up to 12 months at a discount of 50% for the period granted.

Class C (empty and unfurnished properties) discount period will be one month only with the discount set at 100%. Thereafter for properties empty for more than one month 'Full' Council Tax will be payable.

Second Home discount (10%) will be removed and therefore 'Full' Council Tax will be payable from 1<sup>st</sup> April 2013.

#### **B. What specific groups is the policy designed to affect/impact?**

The main activity is to provide council tax support via a discount to those of working age on a low income. The discount will automatically be applied to the council tax demand notice and will reduce the amount to be paid. The support will be means tested in the same way as the present 'Council Tax Benefit' scheme.

Those on low incomes will benefit from the scheme in a similar way to the existing Council Tax Benefit; however it is likely that the majority of working age claimants will have to pay some council tax, or more than they do now.

This is because working age claimants will have to pay the funding shortfall of 10%, which in real terms equates to nearer 20%-25% due to the protection of pensioners and vulnerable groups

Working age claimants will be able to claim CTLS however it is possible they will receive less help towards their council tax than if they claimed council tax benefit.

#### **C. Which groups have been consulted as part of the creation or review of the policy?**

A full public consultation will take place for a period of eight weeks, responses will shape the scheme. Equality questions will form part of the questionnaire to enable analysis to take place.

Formal consultation will also be undertaken with precepting authorities, parish preceptors and various 3<sup>rd</sup> sector agencies that work closely with the Council. E.g. Citizen's Advice Bureau, Voluntary and Advocacy groups and community forums in Hinckley & Bosworth.

The consultation will be jointly run with other Leicestershire authorities, this will enable us to identify any midland wide, broader issues and also report on local Hinckley & Bosworth considerations.

The consultation will be open for a period of 8 weeks and be available to view; [www.hinckley-bosworth.gov.uk](http://www.hinckley-bosworth.gov.uk) Letters will be sent to both working age and pensioner council tax benefit claimants to raise awareness of the consultation.

Paper copies will be distributed at road show events being held during the period.

Customer Services staff at Hinckley & Bosworth will also encourage customers to complete the consultation, and be available to guide those who require assistance through the online questionnaire

form.

Copies of the consultation will also be made available upon request in alternative formats.

The consultation documentation incorporates Plain English standards, although, we are legally obliged to provide some technical information that is not easily adapted to Plain English standards.

Meetings are being held with 3<sup>rd</sup> sector organisations to discuss the options of the scheme and enable them to voice an opinion.

## Step 2 - What we already know and where there are gaps

**A. List any existing information/data do you have/monitor about different diverse groups in relation to this policy? Such as in relation to ethnicity, religion, sexual orientation, disability, age, gender, transgender etc.**

**Data/information such as:**

- **Consultation**
- **Previous Equality Impact Assessments**
- **Demographic information**
- **Anecdotal and other evidence**

This is a completely new area of work, and new responsibility. Billing Authorities have always delivered Council Tax support through the national Council Tax Benefit Scheme.

A third party provider has been engaged and is currently undertaking an exercise to forecast various options for the policy. The impact upon various groups will be considered when the data is available.

The results of the forecast will be used to create the new scheme and to model various scenarios for a particular set of circumstances. Scenarios will be presented as supplementary material as part of the online consultation package.

The current council tax benefit data is available to us for modeling and forecasting purposes. Equality and Diversity data is collated and will be used for comparison purposes.

Examples have been provided to the Senior Management Team and Members. This will continue as the scheme is developed.

The current data held in the council tax benefit data base is comprehensive and will help to shape the scheme via modeling, along with the additional data provided by the third party provider engaged..

It is likely that we will need to work closely with council departments to understand how many people we have in the various identified vulnerable groups, as the Discretionary Fund must be affordable. For example; the number of potential claimants who are care leavers up to the age of 22 per year; the number of foster carer households in Hinckley & Bosworth etc.

Consultation exercise results is available to view on the Council's website total number of responses received was 187 from current Council Tax Benefit claimants

This consultation was undertaken by all Districts and Borough Councils at the same time.

The responses from the consultation supported that everyone should pay more than 10%, 57% said yes to this.

The response concerning other adults living in the household 73% respondents said yes that they should contribute to the household.
<b>B. What does this information / data tell you about diverse group? If you do not hold or have access to any data/information on diverse groups, what do you need to begin collating / monitoring? (please list)</b>
<ul style="list-style-type: none"> <li>- Population density comparable with UK average</li> <li>- Borough is predominantly rural</li> <li>- Ranked 252 out of 354 in the 2010 deprivation index LA ranking..</li> <li>- 5.5% of population receiving benefit income, which is higher than the national average</li> </ul>

**Step 3 – Do we need to seek the views of others? If so, who?**

<b>A. In light of the answers you have given in step 2, do you need to consult with specific groups to identify needs / issues? If not please explain why.</b>
<p><b><u>Consultation</u></b></p> <p>Welfare, social sector landlords and voluntary groups have been consulted on the proposed scheme and have been invited to respond. This has included a number of road shows on this within the locality as well as across the County.</p> <p>Letters have been issued to current Council Tax Benefit claimants to participate in the consultation process</p> <p>Citizen Advice Bureau assisted in delivering road show events across the County</p> <p><b>Awareness</b></p> <p>Taxpayers may also need to seek debt advice prior to April 2013 if they are already struggling to pay their bills or ensure that they are currently claiming all of the benefits that they are entitled to under the current scheme.</p> <p>A series of debt advice road shows aimed at 3<sup>rd</sup> sector organisations are being held in conjunction with the Leicestershire County Council Housing Partnership. These road shows will not only provide awareness of the council tax changes in April 2013, but bring together practitioners from other areas of welfare reform changes.</p> <p><b>Information, Advice and Guidance</b></p> <p>Taxpayers may need tools to help them understand the impact of changes to their household. Once the scheme has been agreed, scenarios will be revised and published, the council may produce a ‘council tax scheme calculator’ to help taxpayers work out the cost of changes.</p> <p>Information will be delivered to each household with annual council tax bills to explain changes.</p> <p>Discretionary fund and other sources of help for those impacted negatively will also be communicated to 3<sup>rd</sup> party organisations, groups and vulnerable people.</p>

**Step 4 – Assessing the impacts**

	<b>In light of any data/consultation/information and your own knowledge and awareness, please identify whether the policy has a positive or negative on the groups specified and provide an explanation for your decision. (please refer to the general duties on the front page)</b>
<b>Age</b>	Working age claimants on a low income

<b>Disability (physical, visual, hearing, learning disabilities, mental health)</b>	Working age claimants on a low income
<b>Sex</b>	Working age claimants on a low income
<b>Religious Belief</b>	Working age claimants on a low income
<b>Racial Group</b>	Working age claimants on a low income
<b>Sexual Orientation</b>	Working age claimants on a low income
<b>Transgender</b>	Working age claimants on a low income
<b>Other protected groups (pregnancy &amp; maternity, marriage &amp; civil partnership)</b>	Working age claimants on a low income
<b>Other socially excluded groups (low literacy, priority neighbourhoods, socio-economic, etc)</b>	None specific to other groups, however there may be feelings of social injustice for those affected in their communities, this may create tension within small hamlets and villages.
<b>All</b>	Working age claimants on a low income

## Step 5 – Action Plan

Please include any identified concerns/actions/issues in this action plan:			
Question Number (Ref)	Action	Responsible Officer	Target Date
1	Advice from Leicestershire Valuing People Team to run specific event targeted at people with learning difficulties Arrange for documentation to be available in Easy Read format	Sharon Stacey	30 <sup>th</sup> August 2012
2	How many people are likely to be affected? To be advised after modeling of a) vulnerable groups and b) the scheme.	Storme Coop Leigh Butler (The Leicestershire Partnership)	31 <sup>st</sup> October 2012
3	Help tax payers work out cost of changes 'Council Tax calculator'	Leila Wilson Programme manager	30 <sup>th</sup> November 2012
4	Notify working age customers of Council decision	Sanjiv Kholi Storme Coop Leigh Butler	31 <sup>st</sup> January 2013

## Step 6 – Who needs to know about the outcomes of this assessment and how will they be informed

	Who needs to know (Please tick)	How they will be informed (we have a legal duty to publish EIA's)
<b>Employees</b>	Council Staff – in particular those within Revenues and Benefits, Customer Services, Housing and other front facing service areas	Staff briefings, email, intranet/internet.
<b>Service users</b>	Council Tax Benefit claimants	The council's 'Borough Bulletin', press releases in local papers, on the council's website, posters, leaflets, discussion at forum meetings.
<b>Partners and stakeholders</b>	CAB, Money Advice, 3 <sup>rd</sup> sector voluntary groups, Housing Associations, Housing departments	Liaison meetings, email updates, briefings/awareness sessions.
<b>Others</b>		
<b>To ensure ease of access, what other communication needs/concerns are there?</b>		We need to be able to communicate with all sectors of the community. Therefore we may need to provide information in other

		languages, Braille, large print etc. We may also need to arrange appointments with customers or their representatives to directly explain changes in a manner which meets their particular needs.
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# **Hinckley & Bosworth Borough Council**

## **Local Council Tax Support Scheme**

The main content of this document is derived from the Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012/2886 and Schedule 1 Council Tax Reduction Scheme (Default Scheme) 2013. Amendments have been made to the Default Scheme regulations to create a local scheme, which reflect the responses received from key stakeholders during an eight week period of consultation which took place between August and September 2012.

### **PART 1 Introduction**

#### **1. Introduction**

This scheme relates to the financial year beginning with 1st April 2013 and may be cited as the Local Council Tax Reduction Scheme 2013.

### **PART 2 Interpretation**

#### **2.— Interpretation**

(1) In this scheme—

“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;

“an AFIP” means an armed forces independence payment payable 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 paragraph 31 and Schedule 4;

“applicable amount” means—(a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2, and

(b) in relation to a person who is not a pensioner, the amount calculated in accordance with—

(i) paragraph 26 and Schedule 3; or

(ii) paragraph 28,

as the case may be;

“applicant” means a person who has made an application;

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

“assessment period” means—(a) in relation to pensioners—

(i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly

earnings of the applicant; or

(ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;

(b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;

“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;

“the authority” means Hinckley & Bosworth Borough Council in relation to whose area this scheme has effect by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

“basic rate” has the meaning given by the Income Tax Act 2007;

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995 the State Pension Credit Act 2002 and the Welfare Reform Act 2007;

“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;

“care home” has the meaning given by section 3 of the Care Standards Act 2000 “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 paragraph 4;

"designated office" means the office of the 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; or

(b) by reference upon or with such a form to some other document available 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 41, 44, 51 or 53 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 ;

"the Employment, Skills and Enterprise Scheme" means a scheme under section 17A (schemes for assisting persons to obtain employment: ""work for your benefit"" schemes etc.) of the Jobseekers Act 1995 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

"employment zone" means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform 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;

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

"extended reduction" means a reduction under this scheme for which a person is eligible under Part 12 (extended reductions);

"extended reduction period" means the period for which a person is in receipt of an extended reduction in accordance with paragraph 89, 96 or 101;

"extended reduction (qualifying contributory benefits)" means a reduction under this scheme for which a person is eligible in accordance with paragraph 88 or 95;

"family" has the meaning given by paragraph 6;

"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 him on 24th 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) (injury benefits) or 29(1)(a) (death benefits) 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" 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;

"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 except in Part 1 of Schedule 3;

"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 29;

“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) in relation to pensioners, a supplement to which paragraph 5(1)(a)(vii) of Schedule 5 refers;

(b) in relation to persons who are not pensioners, a supplement to which paragraph 13 of Schedule 8 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 authority;

“net earnings” means such earnings as are calculated in accordance with paragraph 42 or 52, as the case may be;

“net profit” means such profit as is calculated in accordance with paragraph 61;

“new dwelling” means, for the purposes of the definition of “second authority” and paragraphs 91, 98 and 103, the dwelling to which an applicant has moved, or is about to move, in which the applicant will be resident;

“non-dependant” has the meaning given by paragraph 9;

“occasional assistance” means any payment or provision made by a local authority, for the purposes of—

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

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

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

(b) enabling qualifying individuals to establish or maintain a settled home, and—

(i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972; and

(ii) “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;

and

“local authority” means a local authority in England within the meaning of the Local Government Act 1972;

“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;

"occupational pension scheme" has the same meaning as in section 1 of the Pension Schemes Act 1993;

"partner", in relation to a person, means—

(a) where that person is a member of a couple, the other member of that couple;

(b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or

(c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

"paternity leave" means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;

"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 paragraph 3(2)(a);

"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 paragraph 21;

"person who is not a pensioner" has the meaning given by paragraph 3(2)(b);

"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 paragraph 5 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 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 paragraph 10;

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have attained 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 30 (non-dependant deductions);

“savings credit” is to 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;

"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

(c) the Employment, Skills and Enterprise Scheme;

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

(a) a Health Board, Special Health Board;

(b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985;

(c) a public authority in consequence of a function under section 149 of the Equality Act 2010;

(d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999;

(e) a relevant English body in consequence of a function under section 242 of the National Health Service Act 2006;

(f) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008;

(g) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008; or

(h) 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" has the meaning given by paragraph 73;

"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,

(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,

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" (except where the context otherwise requires) 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) any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991,

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 this scheme, 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 this scheme, 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 this scheme, 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 (employment and support allowance: supplementary provisions) 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 this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.



(6) In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).

### **3.— Application of scheme: pensioners and persons who are not pensioners**

(1) This scheme applies to—

(a) pensioners who fall within any of classes A to C; and

(b) persons who are not pensioners who fall within any of classes D to E.

(2) In this scheme—

(a) a person is 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 is 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 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.

### **4.— Meaning of “couple”**

(1) In this scheme “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.

#### **5.— Polygamous marriages**

(1) This paragraph 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 paragraph 4 (meaning of “couple”) neither party to the marriage is to be taken to be a member of a couple.

#### **6.— Meaning of “family”**

(1) In this scheme “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 sub-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 has an award of universal credit; or

(b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

**7.— Circumstances in which a person is to be treated as responsible or not responsible for another**

(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 paragraph 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 must be treated for the purposes of sub-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 this scheme 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 paragraph is to be treated as not so responsible.

**8.— Households**

(1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 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 22C or 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or

(b) placed, 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

(3) Subject to sub-paragraph (4), sub-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, a local authority under a relevant enactment; or

(b) has been placed, 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

(4) The authority must treat a child or young person to whom sub-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 paragraph "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 Family Law Reform Act 1969;

(f) the Children and Young Persons Act 1969;

(g) the Matrimonial Causes Act 1973;

(h) the Children Act 1975;

(i) the Domestic Proceedings and Magistrates' Courts Act 1978;

(j) the Adoption and Children (Scotland) Act 2007;

(k) the Family Law Act 1986;

(l) the Children Act 1989;

(m) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## **9.— Non-dependants**

(1) In this scheme, "non-dependant" means any person, except someone to whom sub-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—

(i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—

(aa) party to such a marriage other than the applicant's partner; and

(bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or

(ii) in any other case, 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 paragraph 8 (households);

(d) subject to sub-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 section 6 or 7 of the 1992 Act (persons liable to pay council tax);

(e) subject to sub-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 is 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 council tax reduction 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 council tax reduction scheme.

#### **10.— Remunerative work**

(1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme 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 must 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 application, 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 sub-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 sub-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 is to 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 3 Procedural matters**

11. Procedure for reduction applications and appeals against reduction decisions

Schedule 1 contains provisions about the procedure—

(a) by which a person may apply for a reduction under this scheme;

(b) by which a person may make an appeal against certain decisions of the authority;

(c) by which a person can apply to the authority for a reduction under section 13A(1)(c) of the 1992 Act.

### **PART 4 Classes of person entitled to a reduction under this scheme**

12.— Classes of person entitled to a reduction under this scheme

(1) The classes of person described in paragraphs 13 to 18 are entitled to a reduction under this 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.

#### **13. Class A: pensioners whose income is less than the applicable amount**

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) who, subject to paragraph 19 (periods of absence from a dwelling), 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;

(e) whose income (if any) for the relevant week does not exceed his applicable amount, and

(f) who has made an application.

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

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) who, subject to paragraph 19 (periods of absence from a dwelling), 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;

(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  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and

(g) who has made an application.

**15.— Class C: alternative maximum council tax reduction – pensioners**

(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) who, subject to paragraph 19 (periods of absence from a dwelling), 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;

(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 incomes, 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 (persons disregarded for the purposes of discount), 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.

**16. Class D: persons who are not pensioners whose income is less than the applicable amount**

On any day class D consists of any person who is not 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) who, subject to paragraph 19 (periods of absence from a dwelling), 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;
- (e) whose income (if any) for the relevant week is less than his applicable amount, and
- (f) who has made an application.

**17. Class E: persons who are not pensioners whose income is greater than the applicable amount**

On any day class E consists of any person who is not 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) who, subject to paragraph 19 (periods of absence from a dwelling), 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;
- (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 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, and
- (g) who has made an application.

## **19.— Periods of absence from a dwelling**

(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

(iv) unless the person is a pensioner, he has not had more than two periods of temporary absence from the dwelling in the 52 weeks ending with the date on which the current period of temporary absence begins 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, and

(b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952

(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;

or

(c) 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, a government department or the Secretary of State.

## **PART 5 Classes of person excluded from this scheme**

### **20. Classes of person excluded from this scheme**

The classes of person described in paragraphs 21 to 24 are not entitled to a reduction under this scheme.

#### **21.— Class of person excluded from this scheme: persons treated as not being in Great Britain**

(1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.

(2) Except where a person falls within sub-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 sub-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 No 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 sub-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 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 sub-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 paragraph—

"claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;

"EEA Regulations" means the Immigration (European Economic Area) Regulations 2006.

## **22.— Class of person excluded from this scheme: persons subject to immigration control**

(1) Persons subject to immigration control are not entitled to a reduction under this scheme.

(2) "Person subject to immigration control" has the meaning given in section 115(9) of the Immigration and Asylum Act 1999.

## **23.— Class of person excluded from this scheme: capital limit**

(1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000.

(2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this scheme.

## **24. Class of person excluded from this scheme: students**

The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies (except to the extent that a student may be entitled to an alternative maximum council tax reduction by virtue of paragraph 18).

## **PART 6 Applicable amounts**

### **25.— Applicable amounts: pensioners**

(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 (personal allowance);

(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 (child or young person amounts);

(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.

## **26.— Applicable amounts: persons who are not pensioners**

(1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may 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 3;

(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 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 Part 2 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);

(e) the amount of either the—

(i) work-related activity component; or

(ii) support component,

which may be applicable to him in accordance with Parts 5 and 6 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 3—

“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 2008;

“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.

## **27.— Polygamous marriages: persons who are not pensioners**

(1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.

(2) The applicable amount for a week of an applicant where this paragraph applies 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 3 as if he and that partner were a couple;

(b) an amount equal to the difference between the amounts specified in subparagraphs (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 2 of that Schedule (main phase employment and support allowance) 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 Parts 5 and 6 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).

**28.— Applicable amount: persons who are not pensioners who have an award of universal credit**

(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 7 Maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

**29.— Maximum council tax reduction amount under this scheme: pensioners and persons who are not pensioners**

(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 30 (non-dependant deductions: pensioners and persons who are not pensioners).

(1A) In relation to a person who is not a pensioner, sub-paragraph (1) above shall have effect as if the words "100 per cent" were substituted for the words "91.5 per cent".

(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, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to a reduction under this scheme) 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.

### **30.— Non-dependant deductions: pensioners and persons who are not pensioners**

(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 29 are—

(a) in respect of a non-dependant aged 18 or over in remunerative work,  $£10.95 \times 1/7$ ;

(b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply,  $£3.65 \times 1/7$ .

(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] x1/7;

(c) not less than [£322.00] but less than [£401.00] , the deduction to be made under this paragraph is [£9.15] x1/7.

(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 (other than where there is an award of universal credit) 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 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 paragraph 10 of Schedule 3 (additional condition for the disability premium); or

(b) receiving in respect of himself—

(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 allows 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

(c) he is a full-time student within the meaning of Part 11 (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 19(6), 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 an 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, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and

(c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

## **PART 8 Alternative maximum council tax reduction for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

### **31.— Alternative maximum council tax reduction under this scheme: pensioners**

(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 15 (alternative maximum council tax reduction: pensioners) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative 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 4 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 9 Amount of reduction under this scheme**

### **32.— Amount of reduction under this scheme: Classes A to E**

(1) Where a person is entitled to a reduction under this 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 or D, that amount is the amount which is the maximum council tax reduction in respect of the day in the applicant's case.

(3) Where the person is within class B or E, that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f), as the case may be.

(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 the person 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 10 Income and capital for the purposes of calculating eligibility for a reduction under this scheme and amount of reduction**

**CHAPTER 1 Income and capital: general**

**33.— Calculation of income and capital: applicant's family and polygamous marriages**

(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) Except where paragraph 37 applies, 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.

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

(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 income and capital 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 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 is to 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 must 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: pensioners in receipt of guarantee credit or savings credit**

**35. Applicant in receipt of guarantee credit: pensioners**

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

**36.— Calculation of applicant's income and capital in savings credit only cases: pensioners**

(1) In determining the income and capital of an applicant who is a pensioner and 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, the 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 57(1)(c) (calculation of income on a weekly basis);

(c) the higher amount disregarded under this scheme in respect of—

(i) lone parent's earnings; or

(ii) payments of maintenance, whether under a court order or not, which is 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 5 (sums disregarded from applicant's earnings: pensioners);

(e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 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 34 (circumstances in which capital and 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 (power of billing authority to reduce amount of council tax payable);

(h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).

(3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under subparagraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under subparagraph (2).

(4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).

(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 or the authority determines his capital 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.

### **CHAPTER 3 Income and capital where there is an award of universal credit**

#### **37.— Calculation of income and capital: persons who are not pensioners who have an award of universal credit**

(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 34 (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 34 (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 4 Income: other pensioners**

##### **38. Calculation of income and capital where state pension credit is not payable: pensioners**

Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

##### **39.— Meaning of "income": pensioners**

(1) For the purposes of classes A to C in this scheme, "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;

(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 9;

(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 (entitlement to attendance allowance);

(v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);

(vi) child benefit;

(vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);

(viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);

(ix) any—

(aa) social fund payment made under Part 8 of the SSCBA (the social fund), or

(bb) occasional assistance;

(x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);

(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 the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (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 mentioned above;
- (l) a payment made—
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), 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) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(4) The adjustments specified in this sub-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)(w), "equity release scheme" means a loan—(a) made between a person ("the lender") and the applicant;

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

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

#### **40.— Calculation of weekly income: pensioners**

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

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

(b) exceeds a week, the amount to be included in the applicant's weekly income 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 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 is to 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 is to 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 is to 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 is to be determined by taking the Sterling equivalent on the date the payment is made.

(9) The sums specified in Schedule 5 are to 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 sub-paragraph (6) is to be treated as though they were earnings.

(11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.

(12) Schedule 9 (capital disregards: pensioners) 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 71 (calculation of tariff income from capital: pensioners).

(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.

#### **41.— Earnings of employed earners: pensioners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner who is a pensioner, 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) statutory adoption pay payable under Part 12ZB of that Act;
  
- (k) 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) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

#### **42.— Calculation of net earnings of employed earners: pensioners**

(1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), 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

(3) In this paragraph “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 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.

(5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) 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 sections 35 to 37 the Income Tax Act 2007 (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.

#### **43.— Calculation of earnings of self-employed earners: pensioners**

(1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to 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 multiplied by 7.

(3) The period over which the weekly amount of an applicant's earnings is calculated in accordance with this paragraph is to be his assessment period.

#### **44.— Earnings of self-employers earners: pensioners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as a self-employed earner who is a pensioner, 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,
  
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
  
- (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;
  
  - (iv) the National Health Service Commissioning Board or
  
- (e) any sports award.

**45.— Notional income: pensioners**

- (1) An applicant who is a pensioner 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) does 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 is to 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 same meaning as in the Pension Schemes Act 1993.

(9) Subject to sub-paragraphs (10) and (12), a person 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.

(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 sub-paragraph (13), the authority must—

(a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) 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 the 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.

#### **46.— Income paid to third parties: pensioners**

(1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner 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,

(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 does not possess, or is 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.

### **CHAPTER 5 Income: persons who are not pensioners**

#### **47.— Average weekly earnings of employed earners: persons who are not pensioners**

(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 application 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 application 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 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 must 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 51 and 52 (earnings of employed earners: persons who are not pensioners).

**48.— Average weekly earnings of self-employed earners: persons who are not pensioners**

(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 53, 61 and 62 (earnings, and net profit, of self-employed earners).

**49.— Average weekly income other than earnings: persons who are not pensioners**

(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 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).

(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 54 (calculation of income other than

earnings: persons who are not pensioners).

**50.— Calculation of weekly income of employed earners: persons who are not pensioners**

(1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (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 48 (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.

**51.— Earnings of employed earners: persons who are not pensioners**

(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, 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 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,

(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).

**52.— Calculation of net earnings of employed earners: persons who are not pensioners**

(1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner 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 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(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 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

(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 47(2)(b) (average weekly earnings of employed earners: classes D to F), 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 sections 35 to 37 of the Income Tax Act 2007 (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.

**53.— Earnings of self-employed earners: persons who are not pensioners**

(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 8 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 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant's case.

**54.— Calculation of income other than earnings: persons who are not pensioners**

(1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), 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 55 (capital treated as income: persons who are not pensioners).

(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 8.

(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 2008, 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 2002 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) Sub-paragraphs (7) and (8) 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.

(7) 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 (7) applies, is to be calculated by applying the formula—

$$(A-(B \times C))/D$$

where

(a) 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 81(5) (costs of travel, books and equipment);

(b) 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) 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 81(2) (treatment of student loans) 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) D = the number of reduction weeks in the assessment period.

(8) 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 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (students);

“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—(c) 1st January and ending on 31st March;

(d) 1st April and ending on 30th June;

(e) 1st July and ending on 31st August; or

(f) 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 76(7) or both.

(10) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

(a) any payment to which paragraph 41(2) or 51(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.

### **55.— Capital treated as income: persons who are not pensioners**

(1) Any capital payable by instalments which are outstanding at the date on which the application 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 7 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.

**56.— Notional income: persons who are not pensioners**

(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 a council tax reduction 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 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);

(e) any sum to which paragraph 51(a) of Schedule 10 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,

(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 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) 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 sections 35 to 37 of the Income Tax Act 2007 (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 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.

## **CHAPTER 6 Income: further provisions applying to pensioners and persons who are not pensioners**

### **57.— Calculation of income on a weekly basis**

(1) Subject to paragraph 60 (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—

(i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);

(ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners); and

(c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (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 sub-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 sub-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.

### **58.— Treatment of child care charges**

(1) This paragraph applies where an applicant (within the meaning in 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 are to be calculated on a weekly basis in accordance with sub-paragraph (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 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 a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or

(d) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or

(e) 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

(f) 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

(g) 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

(h) by a foster parent or kinship carer under the Fostering Services Regulations 2011, in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or

(i) 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 and being a regulated activity prescribed by those Regulations; or

(j) 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 a pensioner and the other member of the couple is aged not less than 80;

(b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—

(i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and

(ii) he satisfies that conditions 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 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;

(d) 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;

(e) 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;

(f) 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 must be treated as one continuous period;

(g) 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;

(h) 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;

(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;

(ix) main phase employment and support allowance;

(i) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (h) 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;

(j) 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 under section 113(2) of the SSCBA; or

(ii) an abatement as a consequence of hospitalisation;

(k) 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);

(l) an AFIP would be payable to that person 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;

(m) 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

(12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) 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 sub-paragraph is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to 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)(g) 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, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.

(14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—

(a) to whom an attendance allowance or the 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,

(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.

(15) 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 <sup>110</sup>, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB 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, 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 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 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).

(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.

### **59.— Calculation of average weekly income from tax credits**

(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.

## **60. Disregard of changes in tax, contributions etc.**

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;

(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.

## **61.— Calculation of net profit of self-employed earners**

(1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must 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 who is a pensioner 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 62 (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;

(c) in the case of a self-employed earner who is not a pensioner 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 SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, 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 (8), 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 62 (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 is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to 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) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to 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; 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.

(7) The authority must 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 must 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 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.

(9) 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 62 (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 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.

(11) 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 paragraph the daily amount of the qualifying premium must 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 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 application.

## **62.— Calculation of deduction of tax and contributions of self-employed earners**

(1) The amount to be deducted in respect of income tax under paragraph 61(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 sections 35 to 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 60(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 61;

(b) in the case of employment as a child minder, one-third of the earnings of that employment.

## **CHAPTER 7 Capital**

### **63.— Calculation of capital**

(1) The capital of an applicant to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).

(2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—

(a) Schedule 9, in relation to pensioners;

(b) Schedule 10, in relation to persons who are not pensioners.

(3) In the case of an applicant who is a pensioner, his 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.

(4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

**64.— Income treated as capital: persons who are not pensioners**

(1) This paragraph applies in relation to persons who are not pensioners.

(2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.

(3) 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.

(4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.

(5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), 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.

(6) 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.

(7) 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.

(8) 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.

(9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

(10) Any arrears of working tax credit or child tax credit must be treated as

capital.

### **65. Calculation of capital in the United Kingdom**

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.

### **66. Calculation of capital outside the United Kingdom**

Capital which an applicant possesses in a country outside the United Kingdom must 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.

### **67.— Notional capital**

(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 or increasing the amount of that reduction except to the extent that that capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).

(2) A person who is a pensioner 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) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

(4) 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 9; 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 10 (capital disregards: persons who are not pensioners) 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 10 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.

(5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), 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 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.

(6) Sub-paragraph (5) 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,

(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.

(7) 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 63 (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 apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(8) 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.

(9) 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.

### **68.— Diminishing notional capital rule: pensioners**

(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(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 67(1), he would have received a greater reduction in council tax under this 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) must be equal to the aggregate of—

(a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (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 the reduction week to which sub-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 is a pensioner and would have been entitled to a reduction in council tax under this scheme in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital 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 67(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 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) is to be re-determined under that sub-paragraph if the applicant makes a further application 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 67(1);

(ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), 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 under this scheme,

whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (7) must 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 an amount mentioned 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 an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned 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 67(1)—(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction;

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 is 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.

**69.— Diminishing notional capital rule: persons who are not pensioners**

(1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(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 (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—

(a) he is in receipt of a reduction in council tax under this scheme; and

(b) but for paragraph 67(1), he would have received a greater reduction in council tax under this 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 equal to the aggregate of—

(a) an amount equal to the additional amount of the reduction in council tax to which sub-paragraph (2)(b) refers;

(b) where the applicant 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 reduction week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);

(c) where the applicant 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 reduction week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (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 whole or part 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 whole or part 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 is not a pensioner and would have been entitled to a reduction in council tax in the relevant week but for paragraph 67(1).

(5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—

(a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);

(b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, 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;

(c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, 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;

(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) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application 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 for a reduction under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);

(ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to a reduction under this scheme,

whichever last occurred; and

(b) the applicant would have been entitled to a reduction under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (6) must 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 an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which a reduction under this scheme is allowed;

(b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;

(c) in relation to an amount mentioned 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 67(1)—(a) was first taken into account for the purpose of determining his entitlement to a reduction; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to a reduction on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, a reduction,

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 is 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.

## **70. Capital jointly held**

Except where an applicant possesses capital which is disregarded under paragraph 67(7) (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.

### **71. Calculation of tariff income from capital: pensioners**

The capital of an applicant who is a pensioner, 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 £16,000; and
- (b) £1 for any excess which is not a complete £500.

### **72. Calculation of tariff income from capital: persons who are not pensioners**

The capital of an applicant who is not a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—

- (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000;
- (b) £1 for any excess which is not a complete £250.

## **PART 11 Students**

### **CHAPTER 1 General**

#### **73.— Interpretation**

(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) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or

"contribution" means—(a) any contribution in respect of the income of a student or any person which the Secretary of State, or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or

"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 Secretary of State under section 14 of the Education Act 2002, 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 Secretary of State under section 14 of the Education Act 2002, 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 Secretary of State under section 14 of the Education Act 2002 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 persons 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 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) 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 1996;



"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 paragraph (a) of sub-paragraph (2), the period referred to in that 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.

#### **74. Treatment of students**

This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

#### **75.— Students who are excluded from entitlement to a reduction under this scheme**

(1) The students who are excluded from entitlement to a reduction under this scheme are, subject to sub-paragraphs (2) and (7)—

(a) full-time students, and

(b) students who are persons treated as not being in Great Britain.

(2) Sub-paragraph (1)(b) 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 paragraph, 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,

(ii) aged 21 and attained that age during a course of study which is not a course of higher education, or

(iii) 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 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) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(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 sub-paragraph (2)(i) 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)(b) 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 first occurs.

## **CHAPTER 2 Income**

### **76.— Calculation of grant income**

(1) The amount of a student's grant income to be taken into account in assessing his income 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 80(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.

**77.— Calculation of covenant income where a contribution is assessed**

(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 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

**78.— Covenant income where no grant income or no contribution is assessed**

(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 76(2)(a) to (e) 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 76(2)(f) and (3) 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 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 76(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 76(2)(f) and (g) and (3).

### **79. Relationship with amounts to be disregarded under Schedule 8**

No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

### **80.— Other amounts to be disregarded**

(1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must 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 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

### **81.— Treatment of student loans**

(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" has 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 £10 is to be disregarded.

(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) A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

## **82.— Treatment of payments from access funds**

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(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 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—

(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.

### **83. Disregard of contribution**

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.

### **84. Further disregard of student's income**

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.

### **85. Income treated as capital**

(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.

## **86. Disregard of changes occurring during summer vacation**

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 12 Extended reductions**

### **CHAPTER 1 Extended reductions: pensioners**

## **87. Extended reductions: pensioners**

Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

## **88.— Extended reductions (qualifying contributory benefits): pensioners**

(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 this scheme by virtue of falling within any of 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, 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 falling within any of classes A to 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).

**89.— Duration of extended reduction period (qualifying contributory benefits): pensioners**

(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.

**90.— Amount of extended reduction (qualifying contributory benefits): pensioners**

(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 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 this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any reduction week during the extended reduction period, if paragraph 88 (extended reductions (qualifying contributory benefits): pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 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 an application for a reduction under this scheme, the authority must not award a reduction in pursuance of that application during the extended reduction period.

**91.— Extended reductions (qualifying contributory benefits)—movers: pensioners**

(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 benefits) 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 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 this authority to—

(a) the second authority; or

(b) the mover directly.

**92.— Relationship between extended reduction (qualifying contributory benefits) and entitlement to a reduction by virtue of classes A to C**

(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 88(1)(b), that reduction does not cease to have effect until the end of the extended reduction period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended reduction — movers: pensioners).

**93.— Continuing reductions where state pension credit claimed: pensioners**

(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 this scheme for the period of 4 weeks beginning on the day following the day 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 this scheme.

(4) Where a reduction under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a reduction week, then a reduction under this scheme must 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 maximum reduction is to be calculated in accordance with paragraph 29(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 30 falls to be made.

## **CHAPTER 2 Extended reductions: persons who are not pensioners**

### **94. Extended reductions: persons who are not pensioners**

Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

#### **95.— Extended reductions: persons who are not pensioners**

(1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to F is 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 must 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 falling within any of classes D to E 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.

#### **96.— Duration of extended reduction period: persons who are not pensioners**

(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.

#### **97.— Amount of extended reduction: persons who are not pensioners**

(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 by virtue of falling within any of classes D to E 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 by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 95 (extended reductions: persons who are not pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 95 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 an application 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.

#### **98.— Extended reductions—movers: persons who are not pensioners**

(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 would have been entitled had they, or their partner, not 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 second authority, 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.

#### **99.— Relationship between extended reduction and entitlement to a reduction by virtue of classes D to E**

(1) Where an applicant's entitlement to a 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 95(1)(b), that entitlement does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 do not apply to any extended reduction payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended reduction—movers: persons who are not pensioners).

**100.— Extended reductions (qualifying contributory benefits): persons who are not pensioners**

(1) An applicant who is entitled to a reduction under this scheme by virtue of falling within any of classes D to E 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, 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 falling within any of classes D to E 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).

**101.— Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners**

(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.

**102.— Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners**

(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 by virtue of falling within any of classes D to E 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 by virtue of falling within any of classes D to E for any reduction week during the extended reduction period, if paragraph 100 (extended reductions (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or

(c) the amount of reduction under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to E, if paragraph 100 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 an application for a reduction under this scheme, no amount of reduction may be allowed by the appropriate authority during the extended reduction period.

**103.— Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners**

(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 a second authority, 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.

**104.— Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to E**

(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 100(1)(b), that reduction does not cease until the end of the extended reduction period.

(2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended reduction (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended reduction—movers: persons who are not pensioners).

### **CHAPTER 3 Extended reductions: movers in the authority's area**

#### **105. Extended reductions: applicant moving into the authority's area**

Where—

(a) an application is made to the 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; or

(ii) a billing authority in Wales,

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

### **PART 13 When entitlement begins and change of circumstances**

#### **106.— Date on which entitlement begins**

(1) Subject to sub-paragraph (2), any person by 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 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 is so entitled from that reduction week.

#### **107.— Date on which change of circumstances is to take effect**

(1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), 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 is 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 section 11 or 11A of that Act (discounts), 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 (3) 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 this 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 this scheme.

(10) Sub-paragraph (11) applies if—

(a) the applicant or his 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 30 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 this 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 to be the first day of the next reduction week to commence after the date determined under that sub-paragraph.

#### **108.— Change of circumstances where state pension credit in payment**

(1) Sub-paragraphs (2) and (3) apply where—

(a) the 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 this 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 this 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 this scheme reduces—

(a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a 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 relevant 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 he receives under this 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 this 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 this scheme, the change of circumstances referred to in sub-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 this 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 93 (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) the authority or a person—

(i) authorised to carry out any function of the authority relating to this scheme; or

(ii) providing services relating to this 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 36(1).

**PART 14 Applications (including duties to notify authority of change of circumstances)**

**109.— Making an application**

(1) In the case of—

(a) a couple or (subject to paragraph (b)) 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; or

(b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists 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) 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, the 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 this 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 must terminate when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

(6) Anything required by this 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 115(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.

#### **110.— Date on which an application is made**

(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 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 which he occupies as his home, and

(iii) the application to the authority 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 to the authority 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) 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;

(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 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;

(g) in any other case, the date on which the 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 1 to this scheme (application 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 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 sub-paragraph (5)(a), (b) or (c) are satisfied.

(5) The conditions are that—

(a) where paragraph 4(a) of Schedule 1 (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 1 (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 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—

(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 for income support, a jobseeker's allowance or an employment and support allowance.

### **111.— Back-dating of applications: pensioners**

(1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner 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.

(2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) 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).

### **112.— Back-dating of applications: persons who are not pensioners**

(1) Where an applicant who is a person who is not a pensioner—

(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 6 months before the date the application was made;

(c) the day 6 months before the date when the applicant requested that the application should include a past period.

### **113.— Information and evidence**

(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 this scheme;

(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 the authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under this 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 to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

(6) Where a request is made under sub-paragraph (4), the authority must—

(a) inform the applicant or the person to whom a reduction under this scheme has been awarded of his duty under paragraph 115 (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 115, 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 is to be notified.

(7) This sub-paragraph applies to any of the following payments—

(a) a payment which is—

(i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or

(ii) 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 9 (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 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) other than a payment under the Independent Living Fund (2006).

(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.

#### **114.— Amendment and withdrawal of application**

(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 1, 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 1, 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.

### **115.— Duty to notify changes of circumstances**

(1) Subject to sub-paragraphs (3), (6) and (7), the 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 this 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 1 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 this 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—

(a) 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 the 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 this 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 34 (circumstances in which income of a non-dependant is to be treated as applicant's); or

(ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers,

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 15 Decisions by authority**

### **116. Decision by authority**

The authority must make a decision on an application for a reduction under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

### **117.— Notification of decision**

(1) The authority must notify in writing any person affected by a decision made by it under this 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 115(1)(b);

(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 this scheme relating to the procedure for making an appeal.

(5) A person affected to whom the 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 the authority under this 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) 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 the authority under paragraph 109(3).

## **PART 16 Circumstances in which a payment may be made**

### **118.— Payment where there is joint and several liability**

(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 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 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 the person who is entitled to the reduction under this scheme made the application for the reduction and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the reduction may be paid to that person.

## **SCHEDULE 1 (Paragraph 11)**

### **Procedural matters**

#### **PART 1 Procedure for an application for a reduction under this scheme Procedure by which a person may apply for a reduction under this scheme**

**1.** Paragraphs 2 to 7 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 designated office on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.

**4.**

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 supplied 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 the authority is properly completed if 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 the 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.

**PART 2 Procedure for making an appeal**

**Procedure by which a person may make an appeal against certain decisions of the authority**

**8.**

A person who is aggrieved by a decision of the authority which affects—

(a) the person's entitlement to a reduction under this scheme, or

(b) the amount of any reduction under this scheme,

may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

**9.**

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.

**10.**

Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(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**

##### **11.**

(1) An application to the authority for a reduction under section 13A(1)(c) 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 purposes 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 this scheme,

that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

### **PART 4 Electronic communication**

#### **12. Interpretation**

In this Part—

“information” includes an application, certificate, notice or other evidence;

“official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

#### **13. Conditions for the use of electronic communication**

(1) The authority may use an electronic communication in connection with applications for, and awards of, reductions under this scheme.

(2) A person other than the 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 supplied for the purposes of this Part of this Schedule.

(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 of this Schedule.

#### **14. Use of intermediaries**

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.

#### **15. Effect of delivering information by means of electronic communication**

(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 this scheme, on the day the conditions imposed—

(a) by this Part; and

(b) by or under an enactment,

are satisfied.

(2) The 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 sub-paragraph (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.

#### **16. Proof of identity of sender or recipient of information**

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.

#### **17. Proof of delivery of information**

(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 must be 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 must be presumed not to be the case, if that information delivered to the relevant 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 must be presumed to be that recorded on an official computer system.

#### **18. Proof of content of information**

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 must be presumed to be that recorded on an official computer system.

**SCHEDULE 2(Paragraph 25)****Personal Allowances****PART 1 Personal allowances****1. Personal allowance**

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 25(1)(a).

Column (1)	Column (2)
Person, couple or polygamous marriage	Amount
(1) Single applicant or lone parent—	(1)
(a) aged under 65;	(a) [£145.40] ;
(b) aged 65 or over.	(b) [£163.50] .
(2) Couple—	(2)
(a) both members aged under 65;	(a) [£222.05] ;
(b) one or both members aged 65 or over.	(b) [£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—	(3)
(a) for the applicant and the other party to the marriage;	(a) [£222.05] ;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) [£76.65] .

Column (1)	Column (2)
Person, couple or polygamous marriage	Amount
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over—	(4)
(a) for the applicant and the other party to the marriage;	(a) [£244.95] ;
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £81.45] .

## 2. Child or young person amounts

(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 25(1)(b).

Column (1)	Column (2)
Child or young Person	Amount
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;	(a) [£65.22] ;
(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.	(b) [£65.22] .

(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

### 3. Family premium

The amount for the purposes of paragraph 25(1)(c) in respect of a family of which at least one member is a child or young person is £17.40.

### **PART 3**

#### **4. Premiums**

The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

#### **5.**

(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 is to 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 provision 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 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 is to be treated as being in receipt of a 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 paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 or an AFIP.

#### **6. Severe disability premium**

(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 an 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)

(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 is to 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 paid 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 in receipt, notwithstanding section 86 of that Act and regulations made there under;

(c) as being in receipt of an AFIP if he would be so in receipt 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;

(d) 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 (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) references to a person being in receipt of a carer's allowance 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).

## **7. Enhanced disability premium**

(1) The condition is that—

(a) 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; or

(b) (as the case may be) 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 prescribed in accordance with section 78(2) of that Act,

in respect of a child or young person who is a member of the applicant's family.

(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).



## **8. Disabled child premium**

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, personal independence payment or is no longer in receipt of such allowance or payment 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) 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.

## **9.— Carer premium**

(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 is to 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.

## 10. Persons in receipt of concessionary payments

For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9, 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.

## 11. Person in receipt of benefit

For the purposes of this Part of this Schedule, 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 is to be so regarded only for any period in respect of which that benefit is paid.

## PART 4

### 12.— Amounts of premium specified in Part 3

(1) Severe Disability Premium—

Provision	Amount
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(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);	(i) [£59.50] ;
(i) in a case where there is no-one in receipt of such an allowance.	(ii) [£119.00] .
(2) Enhanced disability premium.	(2) [£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.	(3) [£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.	(4) [£33.30] in respect of each person who satisfies the condition specified in paragraph 9.

**SCHEDULE 3 (Paragraph 26)****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) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

Column (1)	Column (2)
Person or couple	Amount
(1) A single applicant who—	(1)
(a) is entitled to main phase employment and support allowance;	(a) [£71.70]
(b) is aged not less than 25;	(b) [£71.70]
(c) is aged not less than 18 but less than 25.	(c) [£56.80]
(2) Lone parent.	(2) [£71.70]
(3) Couple.	(3) [£112.55].

**2.**

For the purposes of paragraph 1 an applicant is entitled to main phase employment and support allowance if—

(a) paragraph 18 is satisfied in relation to the applicant; or

(b) the applicant is entitled to a converted employment and support allowance.

**3.—**

(1) The amounts specified in column (2) below in respect of each person specified in column (1) are, for the relevant period specified in column (1), the amounts specified for the purposes of paragraphs 26(1)(b) and 27(1)(c)—

Column (1)	Column (2)
Child or Young person	Amount
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]

(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.

## **PART 2 Family premium**

### **4.—**

(1) The amount for the purposes of paragraphs 26(1)(c) and 27(1)(d) in respect of a family of which at least one member is a child or young person is—

(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) is 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 (Persons who have attained the qualifying age for state pension credit) 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 (3) 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

(i) council tax benefit (in relation to the period prior to 1st April 2013), and

(ii) a reduction under this scheme (in relation to the period commencing on 1st April 2013);

(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 or a component under paragraph 21 or 22 has not become applicable to the applicant.

(4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant is to 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, the premiums specified in Part 4 are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.

**6.**

Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.

**7.**

The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
- (b) an enhanced disability premium to which paragraph 12 applies;
- (c) a disabled child premium to which paragraph 13 applies; and
- (d) a carer premium to which paragraph 14 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 is to 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, a person is to 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 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, the additional condition referred to in paragraph 9 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, 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 remained continuously entitled to—

(aa) council tax benefit (in relation to the period prior to 1st April 2013, and

(bb) a reduction under this scheme (in relation to the period commencing on 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 58(11)(i) (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 58(11)(i) (treatment of child care charges); or

(v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) 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

(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,

(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)(vii), 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.

(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 is, on again becoming so incapable of work, immediately thereafter to 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 is to 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 are to 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) 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),

in each case is to be treated as a reference to a period of 104 weeks.

(8) 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 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 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)(v) and (2), that partner is to 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 is to 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 the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or

(b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) 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, 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 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 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.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance 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 paragraph 58(11)(i) (treatment of child care charges) 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 paragraph 58(11)(i) and has been for a period of more than 52 weeks.

### **13. Disabled child premium**

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; 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 the award of the premium is to 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) 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 is to 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; or

(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, 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.

**Persons in receipt of benefit for another**

**16.**

For the purposes of this Part of this Schedule, 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 is to be so regarded only for any period in respect of which that benefit is paid.

**PART 4 Amounts of Premiums Specified in Part 3**

**17.—**

(1) Disability Premium—

Premium	Amount
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) [£31.00] ;
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) [£44.20] .
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) [£59.50] ;
(i) in a case where there	(b)(i) [£59.50] ;

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);	
(i) in a case where there is no-one in receipt of such an allowance.	(b)(ii) [£119.00] .
(3) Disabled Child Premium.	(3) [£57.89] in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
(4) Carer Premium.	(4) [£33.30] in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	
	(a) [£23.45] in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;
	(c) [£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 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 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.

(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 (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) 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 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;

(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);

(ii) sub-paragraph (3)(b); or

(iii) paragraph 27(3)(b);

(b) within 12 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; and

(d) 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;

(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);

(ii) paragraph 26(3)(c); or

(iii) sub-paragraph (3)(c);

(b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;

(c) 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 2008 applies to 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), 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;

(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, 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 (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 ("the 2010 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 2010 Regulations 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 2010 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 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).

#### **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 must 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 must 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 4(Paragraph 31)**

##### **Amount of alternate maximum council tax reduction : pensioners**

#### **1.—**

(1) Subject to paragraphs 2 and 3, the alternative maximum council tax reduction in respect of a day for the purpose of paragraph 31 (alternative maximum council tax reduction: pensioners) 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 15(2) (class C) and

(b) “persons to whom paragraph 75(1) of this scheme 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.

(1)	(2)
Second adult	Alternative maximum council tax reduction
(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;	(a) 25 per cent of the council tax due in respect of that day;
(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—	
(i) is less than [£183.00] per week;	(i) 15 per cent of the council tax due in respect of that day;
(ii) is not less than [£183.00] per week but less than [£239.00] per week;	(ii) 7.5 per cent of the council tax due in respect of that day;
(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 75(1) of this scheme 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	(c) 100 per cent of the council tax due in respect of that day.

(1)	(2)
Second adult	Alternative maximum council tax reduction
income-based jobseeker's allowance.	

**2.**

In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—

(a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;

(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, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and

(c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

**3.**

Where there are two or more second adults residing with the applicant for a reduction under this scheme 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 must 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 5(Paragraph 40)**

**Sums disregarded from applicant's earnings: pensioners**

**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 14 of Part 3 of Schedule 3 (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 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

(ix) 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

(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 Act, 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 1997 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 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 been in receipt of a reduction under this scheme and—

(a) £20 was disregarded in respect of earnings taken into account in that award; and

(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 a council tax reduction scheme; or

(c) employment,

following the first day in respect of which that benefit is awarded under this 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 35 (applicant in receipt of guarantee credit: pensioners) does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 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 33 (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 does 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 is also to 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); or

(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 sub-paragraph (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 6 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full amount disregarded there under.

**8.**

Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

(a) £5 is to be disregarded if an applicant who has no partner has earnings;

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

**9.**

Any earnings, other than earnings referred to in paragraph 40(9)(b), 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 is to 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 57(1)(c) (deductions from income of certain child care charges); and

(c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) 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 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 6(Paragraph 40)**

#### **Amounts to be disregarded in the calculation of income other than earnings: pensioners**

##### **1.**

In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, £10 of any of the following—

(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 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 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, 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 sub-paragraphs (a) to (d) above;

(g) 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.

**(1A)**

The whole of any war disablement pension, war widow's pension or war widower's pension not disregarded under paragraph (1) above will be disregarded.

**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, 100 per cent. of such payments; or

(b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

**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 there under, 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) 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.

**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 5, 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 9 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 9, any actual income from capital.

(Page 202 refers)

**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.

**SCHEDULE 7(Paragraph 53)**

**Sums disregarded in the calculation of earnings: persons who are not pensioners**

**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 51(1)(e) (retainer), 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 51(1)(g) or (i) (compensation etc. relating to employment), 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 (b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

## **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);

(ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

## **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 53(3) and (4) (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 33 (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 does 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 3 (applicable amounts: persons who are not pensioners).

(page 139 refers)

(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 3; 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 3 (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 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.

**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 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must 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, 6, 7 and 9 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 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (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 33 (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 does 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 must 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 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 sub-paragraph (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 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard there under.

(page 182 refers)

**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 must 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 (Entitlement and Maximum Rate) Regulations 2002 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 3; 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 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 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 (Entitlement and Maximum Rate) Regulations 2002 (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;

(b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and

(c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) 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 8(Paragraph 54)**

**Sums disregarded in the calculation of income other than earnings:  
persons who are not pensioners**

**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 regulation 30 (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 56(5) (notional income: persons who are not pensioners).

**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, personal independence payment or an AFIP.

**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 the Welsh Ministers 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) does 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, £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 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;

(c) 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;

(d) 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 (b) above;

(e) 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.

**(20A)** the whole of any war disablement pension, war widow's pension or war widower's pension not disregarded under paragraph (20) above will be disregarded.

(1) Subject to sub-paragraph (2), the whole or part of any war disablement pension, war widower's pension not disregarded under paragraphs 1 and 2 above

-(2) The application of sub-paragraph (1) is subject to the authority deciding in its discretion that it should apply

**21.**

Subject to paragraph 40, £15 of any—

(a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;

(b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.

**22.—**

(1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (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 10.

(page 202 refers)

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 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 paragraph 2(1) (interpretation) 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, 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 bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made there under, 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, 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 must 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 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.**

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.

**28.—**

(1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 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 (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);

(c) 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 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) is only to 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, (1)(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 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.

**37.**

Any—

(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or

(b) occasional assistance.

**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 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must 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 sub-paragraph (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 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 is to 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 13 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);

**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.—**

(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 must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

49. —

(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 sub-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.

## **50.**

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.

## **51.**

Any guardian's allowance.

## **52.—**

(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.

**53.**

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.

**54.**

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.

**55.—**

(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).

**56.**

Any council tax benefit to which the applicant is entitled.

**57.**

Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, 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.

**58.**

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).

**59.—**

(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) applies only in respect of payments which are paid to that person from the special account.

**60.—**

(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.

**61.**

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.

**62.**

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.

**63.**

Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.

**64.—**

(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.

**65.**

Any payment of child benefit.

**SCHEDULE 9(Paragraph 63)**

**Capital disregards: pensioners**

**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 does 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 applies 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 applies 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 ending on the date on which that person dies;

(b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies 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 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 Act;

(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 which 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 1996;
  - (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 2008,

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) has 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 the authority's 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”—(a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st 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 the application for a reduction under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the total amount referred to in sub-paragraph (1).

### **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 6 (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 is to be disregarded under this paragraph.

**27.—**

(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax reduction: pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class B and class C.

**28.**

Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to 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 <sup>161</sup> (general social welfare); or

(e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (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 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 10(Paragraph 63)**

### **Capital disregards: persons who are not pensioners**

#### **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 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to 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 does 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.—**

(1) 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 8;

(b) an income-related benefit under Part 7 of the SSCBA;

(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 Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and

(b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has 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 7 or paragraph 29 of Schedule 8.

**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—

(a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or

(b) occasional assistance.

**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 55 or 81 (capital treated as income: persons who are not pensioners, 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 sub-paragraph (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 (6), any reference to the Trusts is to 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,

**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 Employment and Training Act 1973 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 13 of the 1992 Act (reduction of liability for council tax), 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 8 (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 home workers assisted under the Blind Home workers' Scheme.

**49**

(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.

**50.**

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.

**51.**

Any payment to the applicant as holder of the Victoria Cross or George Cross.

**52.**

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.

**53.—**

(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.

**54.—**

(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 the Welsh Ministers 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).

**55.**

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.

**56.**

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.

**57.**

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 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, £10,000.

**58.—**

(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 applies 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 applies 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 applies 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 applies 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 applies for the period beginning on the date on which that payment is made and ending two years after that date; or

(c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies 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 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, 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.

## **59.**

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.

**60.—**

(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.

**61.**

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).

**62.**

Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

**63.**

Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).



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**COUNCIL – 28 JANUARY 2013**

Hinckley & Bosworth  
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**LEICESTERSHIRE REVENUE AND BENEFITS PARTNERSHIP BUDGET  
2013/14**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE DIRECTION)**

**WARDS AFFECTED: ALL WARDS**

**1. PURPOSE OF REPORT**

- 1.1 To obtain approval of the 2013/14 budget for the Leicestershire Revenue and Benefits Partnership in line with the signed Partnership agreement.

**2. RECOMMENDATIONS**

- 2.1 That Council approves Hinckley & Bosworth Borough Council's contribution to the Leicestershire Revenues and Benefits Partnership. This will be a one off contribution for 2013/14 of £57,350.

**3. BACKGROUND**

- 3.1 The timetable for budget setting for the Leicestershire Revenues and Benefits Partnership (the Partnership) are outlined in the Schedule 3 of the Partnership agreement previously approved by Council on 30<sup>th</sup> September 2010. The agreement requires a draft budget to be approved by the Joint Committee before 31<sup>st</sup> November each year, formal approval of the budget by individual partners by 31<sup>st</sup> January.
- 3.2 The draft budget for the Partnership was approved by the Joint Committee at its meeting on 20<sup>th</sup> November 2012 and endorsed by the Joint Management Board on 19<sup>th</sup> December 2012.
- 3.3 In preparing the budget for 2013/14 the following factors and assumptions have been taken into account:
- Actual spend for 2012/13 has been used as an indicator where relevant;
  - A provision for a 1% pay award has been made for 2013/14;
  - The need for a vacancy provision was reviewed in order to identify savings in salary costs;
  - In terms of general inflation no provision has been made other than for contractual increases at 3.2% RPI. This assumption has been applied to the budgets for printing, flexible working, annual billing, postage and telephone and contributes to £21,095 increase in budget.
- 3.4 The proposed budget for the Partnership for 2013/14 has been detailed below.

Expenditure / Income Type	2012/13 Latest Budget to Date (£)	2013/14 Budget (£)	Increase/ Decrease on 2012/13 Budget (£)
Employees	2,588,400	2,678,690	90,290
Premises Related Expenditure	73,150	77,940	4,790

Transport Related Expenditure	67,260	48,000	-19,260
Supplies & Services	664,460	704,460	40,000
Central & Administrative Exp	31,200	31,200	0
Revenue Income	-3,424,470	-3,520,670	-96,200
Contributions from HBBC		-19,620	-19,620
	<u>0</u>	<u>0</u>	

3.5 The main variations (excluding those created by inflationary and pay assumptions) are as follows:

- Employees: Salary costs have been increased to reflect that 1 training post has now become full time. In addition, the budget now reflects the full year cost of a debtors officer that transferred from Hinckley and Bosworth in 2012/13. Half of these costs have been met by Hinckley and Bosworth which is indicated by the “contributions” detailed on the budget summary. As indicated in 3.3, a vacancy provision of £31,430 has been created.
- Premises related expenditure / Rent: Rent has been increased by £2,000 to reflect the additional storage and office space that is being utilised at the Atkins building
- Premised related expenditure/Caretaking and Cleaning: A budget of £2,500 has been set for 2013/14 to reflect the actual costs incurred in 2012/13
- Transport related expenditure/Car Allowances: The cost of car allowances has been reduced by £9,420 following the revision of Hinckley & Bosworth’s car allowance scheme
- Transport related expenditure/Disturbance: Now that the Partnership has been in operation for over 1 year, the prior year disturbance budget of £10,840 has been reduced to £1,000. The remaining budget will meet the costs of officers due to return from maternity leave in year
- Supplies and Services/ Computer Software Maintenance & Upgrade: An additional £18,960 is required in 2013/14 to fund Microsoft upgrades
- Supplies and Services/ Legal Fees: The legal fees budget for housing benefits overpayments administered by the debtors officer has been transferred from HBBC. The income from legal fees will continue to be received by the partners directly, offsetting any costs associated with this budget
- Supplies and Services/ Postage: Postage budgets have been increased by £7,250 to cover price increases

3.6 Partner contributions have been calculated on the basis of the budget and split in accordance with the Partnership Agreement:

<b>Percentage Splits</b>	<b>HBBC</b>	<b>HDC</b>	<b>NWLDC</b>
Salaries	39.78%	28.68%	31.54%
Non salary costs	36.94%	27.12%	35.94%

3.7 Based on this methodology, the estimated contributions for each partner (bar rounding) are as follows:

	<b>HBBC</b> £	<b>HDC</b> £	<b>NWLDC</b> £
2012/13 Budgeted Contribution	1,338,560	977,850	1,108,050
Total Contributions per Partner for 2013/14	1,395,910	1,005,150	1,139,250
Difference	57,350	27,300	31,200

3.8 A growth bid to the value of £57,350 has been submitted as part of the 2013/14 budget setting process. It should be noted that the Partnership has mobilised the services of "Capacity Grid" who have been charged with identifying savings from reviewing the operation of the Partnership. It is therefore assumed that these savings will reduce contributions from partners and that this growth bid will be "one off".

#### **4 FINANCIAL IMPLICATIONS (KB)**

Contained within the body of the report

#### **5 LEGAL IMPLICATIONS (AB)**

5.1 The percentage contributions of each Council within the partnership are set out within the Partnership Agreement made between Hinckley and Bosworth Borough Council, Harborough District Council and North West Leicestershire District Council and dated 6<sup>th</sup> April 2011

5.2 If the budget is not approved the terms of the partnership agreement provide that the Partnership will continue to operate on the same budget as for the previous financial year

#### **6 CORPORATE PLAN IMPLICATIONS**

The Council's financial standing is maintained and the finances remain healthy over the period of the plan

#### **7 RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision/project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report/decision were identified from this assessment:

<b>Management of Significant (Net Red) Risks</b>		
<b>Risk Description</b>	<b>Mitigating Actions</b>	<b>Owner</b>
None		

**8. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

There are none.

**9. CORPORATE IMPLICATIONS**

By submitting this report the author has taken the following into account:-

- Community Safety Implications
- Environmental Implications
- ICT Implications
- Asset Management Implications
- Human Resources Implications

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Background Papers:           Joint Committee Minutes and Budget Papers  
  Partnership Agreement

Author:                            Katherine Bennett Head of Finance ext 5609

Executive Member:           Councillor KWP Lynch





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## COUNCIL – 28 JANUARY 2013

### TREASURY MANAGEMENT STRATEGY AMENDMENT REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE DIRECTION)

#### WARDS AFFECTED: ALL WARDS

### **1. PURPOSE OF REPORT**

- 1.1 To request a revision to the Council's Treasury Management Strategy to take into account receipt of Regional Growth Funding.

### **2. RECOMMENDATIONS**

- 2.1 That Council approves an amendment to the Treasury Management policy to allow up to £12million of Regional Growth Funding to be held with the Council's own bank for a maximum of 3 months.

### **3. BACKGROUND**

- 3.1 The Council's Treasury Management Strategy for 2012/13 was approved by Council on 23<sup>rd</sup> February 2012 and endorsed by the Finance and Audit Select Committee on 11<sup>th</sup> June 2012.
- 3.2 The Treasury Management Strategy contains time and monetary limits for investment of the Council's funds in order to maximise liquidity, security and yield. The time and monetary limit for investment depends on the category of the investment institution as follows:

	<b>Fitch (or equivalent)</b>	<b>Money Limit</b>	<b>Time Limit</b>
Limit 1 Category	AAA	£5m	3yrs
Limit 2 Category	AA	£5m	3yrs
Limit 3 Category	A	£3m	2yrs
Other Institution Limits	-	£2m	1yr
Guaranteed Organisations	-	£2m	6mths

Though the time limit of all investments is 6months+, the Council has locally decided to limit all new investments to 1 month.

- 3.3 Per the offer letter issued by the Department of Communities and Local Government this Council will receive Regional Growth Funding to provide enhanced highway capacity on the A5 and enabling infrastructure works adjacent to the MIRA Enterprise Zone. The full grant award (£19,474,000), will be "drawn down" by the Council from the DCLG on a quarterly basis and will be paid over to the key partners (MIRA, HBBC and the Highways Agency) to enable completion of the project.
- 3.4 Throughout the period of the project, the Council is required to "draw down" funds a quarter in advance. All funds must be held in a separately earmarked account. The grant offer letter states that interest may be earned on the held funds, however this cannot be retained by the Council but rather must be used for the purpose of the project.

- 3.5 In order to facilitate the drawn down and payment of the grant funding, an earmarked current account has been opened with the Council's bankers: HSBC Bank plc. In addition, options for investment of any surplus cash are being investigated with HSBC. It is expected a deposit account with HSBC Plc will be opened as the Council must retain access to the funds to ensure payment of partners.
- 3.6 The Council's current counterparty list provided by Sector (Treasury Management advisors), indicates that HSBC Bank plc is a "Limit 3" bank and therefore the Council may invest £3million for a maximum of 2 years with the institution. Based on the cash flow projections for RGF project, the Council will draw down up to £11,683,379 from the DCLG during the project life.
- 3.7 On the basis of the above, it is requested that an amendment to the Treasury Management Policy is approved to allow up to £12million to be held with HSBC Bank plc for up to 3 months (1 quarter). This amendment will **only** relate to RGF funds.
- 3.8 The Council receives updates on a daily basis from Sector and the financial stability of HSBC Bank plc will continue to be monitored. Any concerns raised by our advisors will be brought to the attention of Council and further amendments made to the policy as required.

#### **4 FINANCIAL IMPLICATIONS (KB)**

- 4.1 Contained within the body of the report

#### **5 LEGAL IMPLICATIONS (AB)**

- 5.1 The agreement with the Highways Agency to allow works to the A5 requires that HBBC hold sufficient RGF funding in a separate account dedicated to the project. The approval of the change to the Treasury Management policy will allow the Council to meet this commitment

#### **6 CORPORATE PLAN IMPLICATIONS**

The Council's financial standing is maintained and the finances remain healthy over the period of the plan

#### **7 RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision/project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report/decision were identified from this assessment:

<b>Management of Significant (Net Red) Risks</b>		
<b>Risk Description</b>	<b>Mitigating Actions</b>	<b>Owner</b>
S.33 - MIRA RGF Fund	The draw down of funds for the RGF will only occur following the sign off of a correctly constituted Heads of Terms and associated agreements,	Bill Cullen

**8. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

There are none.

**9. CORPORATE IMPLICATIONS**

By submitting this report the author has taken the following into account:-

- Community Safety Implications
- Environmental Implications
- ICT Implications
- Asset Management Implications
- Human Resources Implications

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Background Papers: Treasury Management Policy  
RGF Offer Letter

Author: Katherine Bennett Head of Finance ext 5609  
Executive Member: Councillor KWP Lynch

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**COUNCIL – 28 JANUARY 2013**

**RE: SHARED ICT SERVICE WITH MELTON BOROUGH COUNCIL  
REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE  
DIRECTION)**



Hinckley & Bosworth  
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**WARDS AFFECTED: ALL WARDS**

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1. **PURPOSE OF REPORT**

To inform Members of a proposal to Share ICT Services with Melton Borough Council, and recommends that the Council extends its ICT Shared Service to include Melton Borough Council, in addition to Blaby District Council and Oadby and Wigston Borough Council.

2. **RECOMMENDATION**

Subject to satisfactory completion of pre contract/due diligence negotiations and consultation with employees, Council is recommended to approve:

- (i) That Melton delegate their ICT function under section 101 of the Local Government Act 1972 to Hinckley & Bosworth Borough Council, acting as lead Council for the ICT shared service.
- (ii) That once delegated to Hinckley & Bosworth, Melton ICT service be provided by Steria Limited.
- (iii) That the Chief Executive and Deputy Chief Executive (Corporate Direction) of Hinckley and Bosworth Borough Council; the Chief Executive of Oadby and Wigston Borough Council, the Chief Executive and Corporate Transformation Manager of Blaby District Council, and the Chief Executive and Head of Central Services from Melton Borough Council will form Officer Board for management of the shared ICT service.
- (iv) That authority is delegated to the Chief Executive and Deputy Chief Executive (Corporate Direction) for agreement and implementation of the Shared Service Arrangement and to accept the delegation of the ICT Function from Melton Borough Council.

3. **BACKGROUND TO THE REPORT**

Melton Borough Council have undertaken a review of its ICT Service Provision and subsequently produced a Statement of Requirements for moving to a Shared Services Arrangement with Hinckley and Bosworth Borough Council. The Statement of Requirements was produced in close cooperation with both H&BBC and the Steria team who provide our fully managed ICT support service.

Whilst this initiative has been developed by Melton Borough Council there are some significant benefits to the arrangement for Hinckley and Bosworth Borough Council. The key benefits are

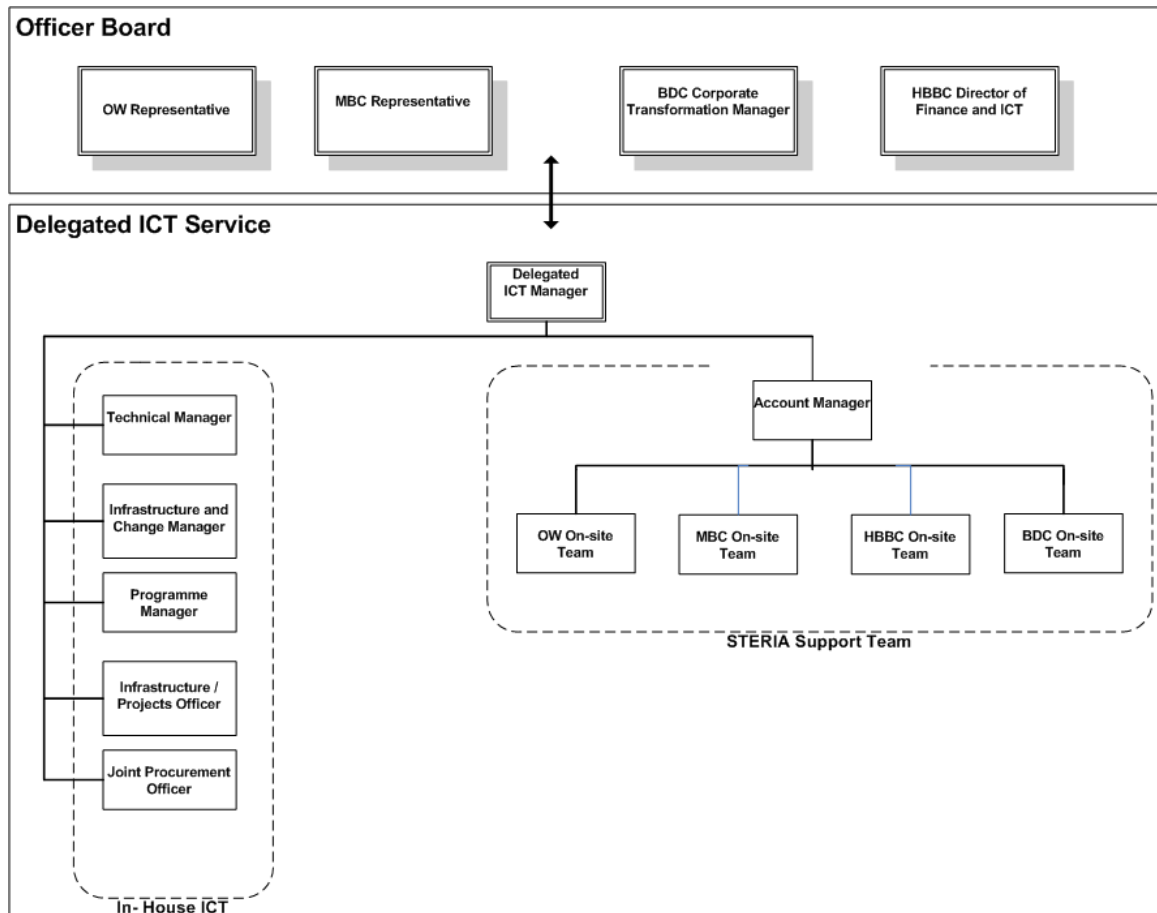
- A contribution to the Council's ICT Management.
- Further procurement opportunities to obtain goods and services at a more competitive price.
- Additional Steria personnel on site, providing a greater pool of ICT talent to support the ICT Contract.

- Develop a shared ICT Infrastructure across the four Authorities to minimise duplication of resources.
- The ability to develop a joint Disaster Recovery Strategy between all parties.

Senior Officers from both Hinckley and Bosworth Borough Council and Melton Borough Council have met to discuss the proposal and a period of due diligence will commence to ensure that the assumptions made within the Melton Borough Council report are accurate.

#### 4. PROPOSED STRUCTURE OF THE ICT SHARED SERVICES

The proposed organisational structure for the shared ICT service is shown below:



The shared service will be managed from Hinckley & Bosworth.

#### 5. GOVERNANCE

In order to operate the shared service, Blaby District Council will need to delegate its IT function to Hinckley & Bosworth Borough Council under section 101 of the Local Government Act 1972. Members are asked to approve this course of action.

Management of the shared service will then be overseen by an Officer Board, made up from the Chief Executive and Deputy Chief Executive (Corporate Direction); the Chief Executive at Oadby and Wigston Borough Council, the Chief Executive and Corporate Transformation Manager of Blaby District Council, and the Chief Executive and Head of Central Services of Melton Borough Council.

6. TIMESCALES FOR IMPLEMENTATION

All stages of implementation will be subject to rigorous testing with the aim of achieving a planned 'go-live' date of 1 April 2013. The transition will commence in January 2013 once the delegation has been agreed.

7. FINANCIAL IMPLICATIONS [AB]

The proposal will potentially provide Hinckley and Bosworth Borough Council with an annual contribution of £25,000 to the running costs of the service - although it should be noted that this value will be confirmed during the due diligence process.

8. LEGAL IMPLICATIONS [AB]

S101 of the Local Government Act 1972 expressly provides that one Council may delegate their functions to another Council and the proposals fall within these enabling powers.

The Council will need to vary its existing contract with Steria to allow the addition of Melton BC to the shared service.

9. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Objectives 2 and 5 of the Corporate Plan, and the ICT Strategy.

10. CONSULTATION

Not Applicable.

11. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner

12. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This is an extension to the ICT Service to include Melton Borough Council as part of the Shared Service. The service at Hinckley remains unaffected by this proposal.

13. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- Community Safety implications
  - Environmental implications
  - ICT implications
  - Asset Management implications
  - Human Resources implications
  - Planning Implications
  - Voluntary Sector
- 

Background papers: none

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