



LONDON BOROUGH OF ENFIELD

**AGENDA FOR THE COUNCIL MEETING
TO BE HELD ON WEDNESDAY, 29TH
JANUARY, 2014 AT 7.00 PM**

**THE WORSHIPFUL THE MAYOR
AND COUNCILLORS OF THE
LONDON BOROUGH OF ENFIELD**

**Please
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Date: 21 January 2014

Dear Councillor,

You are summoned to attend the meeting of the Council of the London Borough of Enfield to be held at the Civic Centre, Silver Street, Enfield on Wednesday, 29th January, 2014 at 7.00 pm for the purpose of transacting the business set out below.

Yours sincerely

J. P. Austin

Assistant Director, Corporate Governance

- 1. ELECTION (IF REQUIRED) OF THE CHAIRMAN/DEPUTY CHAIRMAN OF THE MEETING**
- 2. MAYOR'S CHAPLAIN TO GIVE A BLESSING**

The Mayor's Chaplain to give a blessing.

- 3. MAYOR'S ANNOUNCEMENTS (IF ANY) IN CONNECTION WITH THE ORDINARY COUNCIL BUSINESS**
- 4. MINUTES** (Pages 1 - 20)

To approve, as a correct record, the minutes of the Council meeting held on Wednesday 27 November 2013.

- 5. APOLOGIES**
- 6. DECLARATION OF INTERESTS**

Members of the Council are invited to identify any disclosable pecuniary

other pecuniary or non pecuniary interests relevant to items on the agenda.

7. OPPOSITION BUSINESS - LONG TERM INITIATIVES FOR THE BOROUGH (Pages 21 - 24)

An issues paper prepared by the Opposition Group is attached for the consideration of Council.

The Constitution Procedure Rules relating to Opposition Business are attached for information. Members are asked to note that these procedure rules are subject to amendment, following review by Members & Democratic Services Group with the changes to be submitted for approval under Agenda Item 8.

8. AMENDMENTS TO THE CONSTITUTION: OPPOSITION BUSINESS, MEMBER & OFFICER PROTOCOL & MEMBERSHIP OF COUNCILLOR CONDUCT COMMITTEE (Pages 25 - 48)

To receive a report from the Director of Finance, Resources & Customer Services seeking approval to:

- (a) Amendments to the procedure for dealing with Opposition Priority Business;
- (b) A revised and updated Member/Officer Protocol; and
- (c) To the provision of substitute members on the Councillor Conduct Committee

(Report No.176)

Members are asked to note that the amendments to the procedure for dealing with Opposition Priority Business and Member/Officer Protocol were considered and approved for recommendation on to Council by the Members & Democratic Services Group on 13 January 2014. Subject to approval by Council, the amendments will come into immediate effect.

The provision of substitute members on the Councillor Conduct Committee has been agreed by the Councillor Conduct Committee (3 December 2013).

9. COUNCIL TAX SUPPORT SCHEME 2014/15 (Pages 49 - 268)

To receive a report from the Director of Finance, Resources & Customer Services reviewing and seeking approval to changes in the local Council Tax Support Scheme for 2014/15, which the Council is required to produce under section 13A(1)(a) and Schedule 1A of the Local Government Finance Act 1992.

The report also recommends the 2014/15 council tax and business rate bases (Appendix D and E) and the council tax technical change (Appendix F).

(Report No.142A)

(Key Decision – Reference No.3832, 3833 & 3834 combined)

Members are asked to note that:

- (a) Cabinet (11 December 2013) considered and approved the local Council Tax Support Scheme for recommendation on to Council.
- (b) The NNDR 1 DCLG Business Rate Base Return (Appendix E) has been marked as “To Follow”, pending completion following receipt from DCLG on 17 January 14.

10. REVIEW OF PARLIAMENTARY POLLING DISTRICTS & POLLING PLACES (Pages 269 - 278)

To receive a report from the Chief Executive & Director of Finance, Resources & Customer Services providing details on the outcome of a review undertaken by the Electoral Review Panel of all polling districts and polling places, under the requirements of the Representation of the People Act 1983 (as amended by the Electoral Registration and Administration Act 2013).

(Report No.177)

The Electoral Review Panel commenced its review on 1 October 2013 and following consideration of all representations received agreed the final outcome on 20 November 2013 for recommendation on to Council.

Council is being asked to consider and approve the final recommendations from the Panel for adoption with effect from 17 February 2014.

11. COUNCILLORS' QUESTION TIME (TIME ALLOWED - 30 MINUTES)
(Pages 279 - 310)

11.1 Urgent Questions (Part 4 - Paragraph 9.2.(b) of Constitution – Page 4-9)

With the permission of the Mayor, questions on urgent issues may be tabled with the proviso of a subsequent written response if the issue requires research or is considered by the Mayor to be minor.

Please note that the Mayor will decide whether a question is urgent or not.

The definition of an urgent question is “An issue which could not reasonably have been foreseen or anticipated prior to the deadline for the submission of questions and which needs to be considered before the next meeting of the Council.”

Submission of urgent questions to Council requires the Member when submitting the question to specify why the issue could not have been

reasonably foreseen prior to the deadline and why it has to be considered before the next meeting. A supplementary question is not permitted.

11.2 Councillors' Questions (Part 4 – Paragraph 9.2(a) of Constitution – Page 4 - 8)

The list of forty three questions received and their written responses are attached to the agenda.

12. MOTIONS

12.1 In the name of Councillor Charalambous:

This Council acknowledges with pride Chickenshed's contribution to arts, community and education in the London Borough of Enfield over the last 40 years and restates the Council's commitment to a continued partnership which has benefited so many of the borough's residents.

12.2 In the name of Councillor Hamilton:

I call on Enfield council to urge the Government, and in particular the Ministry of Justice, to think again about their proposals for the privatisation of the probation service where they are proposing G4S and the like running the probation service.

We oppose the government's plan to privatise the probation service to make cost savings from centrally managing more offenders in the community and closing prisons. This will increase risk to Enfield residents.

12.3 In the name of Councillor Hamilton:

This Council believes that the safety and security of Enfield residents is being put at risk by the Mayor of London and the Tory led Coalition Government as a result of cuts to the key emergency services – the Metropolitan Police Service, the London Fire Brigade, the London Ambulance Service and the Accident & Emergency Departments.

The Council believes that the cuts are too far and too fast and that the many millions of pounds being taken from the budgets of the NHS, the Metropolitan Police Service and the London Fire Brigade will inevitably endanger families and communities in Enfield.

The closures of Met police station front desks, fire stations and A & E departments alongside cuts to the London ambulance service means that the safety of Enfield residents is put at risk.

This Council calls on the Mayor of London and the Coalition Government to reconsider the changes which reduce the safety and security of our residents.

12.4 In the name of Councillor Lavender:

Enfield Council notes with sadness the death of Lord McAlpine and requests that Councillor Hamilton withdraws the remarks she made in a debate at Council that a senior Conservative was a paedophile at a time when unfounded allegations were being made against Lord McAlpine and which were subsequently withdrawn.

13. MEMBERSHIPS

To confirm the following changes to committee memberships:

(a) Older People & Vulnerable Adults Scrutiny Panel

Councillor R.Hayward to be removed from the membership list for the Panel.

14. NOMINATIONS TO OUTSIDE BODIES

To confirm any changes to nominations to outside bodies.

15. CALLED IN DECISIONS

None received.

16. DATE OF NEXT MEETING

To note that the next meeting of the Council will be held on Wednesday 26 February 2014 at 7.00 p.m. at the Civic Centre.

In addition Members are asked to note that the final meeting of the 2013/14 Municipal Year will be held at 7.00pm on Wednesday 2 April 2014.

17. EXCLUSION OF THE PRESS AND PUBLIC

To consider, if necessary, passing a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for the item of business listed on the part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

No Part 2 items have currently been identified for consideration.

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**MINUTES OF THE MEETING OF THE COUNCIL
HELD ON WEDNESDAY, 27 NOVEMBER 2013**

COUNCILLORS**PRESENT**

Chaudhury Anwar MBE (Mayor), Ingrid Cranfield (Deputy Mayor), Ali Bakir, Caitriona Bearryman, Yasemin Brett, Jayne Buckland, Alev Cazimoglu, Lee Chamberlain, Bambos Charalambous, Yusuf Cicek, Christopher Cole, Andreas Constantinides, Christopher Deacon, Dogan Delman, Christiana During, Marcus East, Patricia Ekechi, Achilleas Georgiou, Del Goddard, Christine Hamilton, Ahmet Hasan, Elaine Hayward, Robert Hayward, Denise Headley, Ertan Hurer, Tahsin Ibrahim, Chris Joannides, Eric Jukes, Jon Kaye, Nneka Keazor, Joanne Laban, Henry Lamprecht, Michael Lavender, Dino Lemonides, Derek Levy, Simon Maynard, Donald McGowan, Terence Neville OBE JP, Ayfer Orhan, Ahmet Oykenner, Anne-Marie Pearce, Daniel Pearce, Martin Prescott, Geoffrey Robinson, Michael Rye OBE, George Savva MBE, Rohini Simbodyal, Toby Simon, Alan Sitkin, Andrew Stafford, Doug Taylor, Glynis Vince, Ozzie Uzoanya, Tom Waterhouse and Lionel Zetter

ABSENT

Kate Anolue, Alan Barker, Chris Bond, Jonas Hall, Paul McCannah, Chris Murphy, Edward Smith and Ann Zinkin

70**ELECTION (IF REQUIRED) OF THE CHAIRMAN/DEPUTY CHAIRMAN OF THE MEETING**

The election of a Chair/Deputy Chair of the meeting was not required.

71**MAYOR'S CHAPLAIN TO GIVE A BLESSING**

Rabbi Levy from the Palmers Green & Southgate Synagogue gave the blessing.

72**MAYOR'S ANNOUNCEMENTS (IF ANY) IN CONNECTION WITH THE ORDINARY COUNCIL BUSINESS**

The Mayor made the following announcements.

Rabbi Levy from Palmers Green & Southgate Synagogue was thanked for offering the blessing at the start of the meeting.

The Mayor informed Members that:

a. Goldstein Award

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Members of Enfield Council's Community Safety Partnership had won the 2013 International Herman Goldstein Award for Excellence in Problem-Oriented Partnerships - a prestigious international award for reducing youth robbery by nearly 60%. The Partnership had beaten worldwide competition from New Zealand and the United States of America for its work tackling "Robbery of School Age Children".

The project, which had also won the London Problem Orientated Partnership Award in September, had started in 2009 and was aimed at reducing the number of crimes committed against and by school children.

The global Goldstein Award recognised effective problem-orientated projects that had successfully tackled recurring crime, disorder or public safety problems facing the police and communities. With this in mind, the Mayor congratulated Enfield Council and the police for striving to constantly keep the residents of Enfield safe.

The Mayor asked Sandeep Broca (Enfield Council's Community Safety Unit) and Sergeant Neil Standring (Metropolitan Police) who had led the project, to come forward and collect the award. Both were congratulated by all Members at the meeting.

**73
MINUTES**

AGREED that the minutes of the Council meeting held on Wednesday 9 October 2013 be confirmed and signed as a correct record.

**74
APOLOGIES**

Apologies for absence were received from Councillors Kate Anolue, Alan Barker, Chris Bond, Jonas Hall, Paul McCannah, Chris Murphy, Edward Smith &, Ann Zinkin. Apologies for lateness were received from Councillors, Ali Bakir, Chris Deacon & Henry Lamprecht.

**75
DECLARATION OF INTERESTS**

Councillors Del Goddard and CElaïne Hayward declared an interest in Agenda Item 10 (Future Provision of Secondary Tuition Services) in their capacity as Chair and Vice-Chair of the Secondary Tuition Centre Governing Body. John Austin (Assistant Director, Corporate Governance) confirmed the interest registered was of a non-pecuniary nature, so they would be able to remain in the meeting and participate in any discussion and vote on this item.

Councillor Bambos Charalambous also took the opportunity to declare, in respect of Motion 15.3 (Chickenshed) that all members of the Council had received two free tickets to attend a performance at Chickenshed Theatre.

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OPPOSITION BUSINESS - ENFIELD: THE ENVIRONMENT IN WHICH WE ALL LIVE

Councillor Laban introduced the issues paper, prepared by the Conservative Group. Issues highlighted were as follows:

1. The need identified by the Opposition Group for the current Administration to recognise the need for action to be taken in order to preserve those aspects of the Borough most valued by residents, in terms of the day-to-day living environment, and which would make Enfield a place in which they wanted to stay and live.
2. Areas of concern identified included:
 - a. The need to support local businesses, particularly in town centres and those areas affected by the disturbances in 2011, utilising all available sources of funding;
 - b. The proposed use of funding being made available by the Mayor for London to support local business on the Market Garden initiative within Enfield, as opposed to further investment in town and local retail centres;
 - c. The time taken to redevelop small vacant housing sites across the borough;
 - d. The impact of traffic calming schemes across the borough, which it was felt had failed to understand the local environment and been undertaken in an uncoordinated way. It was felt these schemes, combined with a range of anti-car measures, had led to increased traffic congestion across the borough with a detrimental impact on local residents;
 - e. The appearance of the physical street scene across the borough, which had seen paving slabs replaced in many areas by tarmac and unsatisfactory communication with residents in terms of them being able to report incidents during the recent bad weather;
 - f. Planning enforcement activity, with measures needed to challenge the erosion of conservation areas and Green Belt as well as quality of developments and adherence to the planning process.

Whilst supportive of the Enfield 20:20 concept the Opposition Group felt there needed to be more focus on the issues highlighted in order to safeguard the living environment within the borough.

Councillor Goddard, Cabinet member for Business & Regeneration, responded on behalf of the Majority Group, highlighting:

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1. What was felt to be a lack of clear focus within the Opposition Business Paper, given the range of issues highlighted and need to develop more evidence based solutions.
2. The need to recognise the following national, regional as well as local policy context in terms of the issues raised and impact in terms of key drivers on the local environment:
 - a. at local level the Council had continued with the Core Strategy almost entirely as adopted by the Opposition Group under the previous Administration, which included a range of housing and other socio-economic and development objectives.
 - b. at regional level the Council was required to take account of the Mayor for London's strategies and policy objectives as set out within the London Plan in relation to areas such as housing, planning development and the Green Belt
 - c. nationally the Council was having to manage the impact of the Government's programme of welfare reforms.
3. In terms of support for local business and town centres the Market Garden initiative had been funded through the GLA but not via the Outer London Fund. The aim behind the initiative was to create local employment opportunities designed to address increasing levels of poverty within the borough and was supported by the Mayor for London. Funding secured via Phase I & II of the GLAs Outer London Fund was being used to support improvements and development work within Town Centres, with particular success along the eastern corridor of the borough such as Hertford Road where the occupancy rate for retail units was approx. 98%. Occupancy problems had been recognised in Enfield Town, but these were largely due to the high cost of rents and size of units available. Whilst outside of its direct control, the Council was working with the retail and property companies in the private sector in an attempt to influence and address these issues. The mini Holland scheme was also provided as another example of the way in which the Council was working (on a cross party basis) to address the issues raised. Members were also asked to support the various local initiatives being planned as part of "Small Business Saturday" on 7 December 13.
4. The policy being followed in relation to management of the Green Belt had been set out in the Core Strategy and Development Management Document (DMD). A review of the Green Belt boundary had been completed, which had been subject to a process of consultation, with the changes proposed resulting in 13 site gains and 19 site loses. This only accounted for a 0.15% loss overall in terms of the Green Belt within the DMD, which was due to be submitted to the Planning Inspectorate. It was not felt this represented a mismanagement or deterioration of the Green Belt.

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5. The central theme in the Opposition Business Paper that Enfield was no longer a place that people wanted to live was not accepted, evidenced by the demand for housing and increased prices in large parts of the borough, which the Meridian Water and Estate Renewal Programme had also in part been designed to address.

Other issues highlighted during the debate were as follows:

- (a) The improvements highlighted by the Opposition Group in relation to the street scene and environment across the borough under their Administration including CCTV, wheelie bin pilot and street lighting PFI and concerns highlighted at what they felt to be:

- a lack of clear strategy and piecemeal approach towards the implementation of traffic management schemes across the borough and impact this was having in terms of congestion and traffic displacement in surrounding areas. The need to recognise the opportunities and threats arising from the proposed extended opening of the tube network in managing this issue was also highlighted alongside the need for a review of the strategy for managing the free flow of traffic across the borough;
- the impact that the levies and fees charged for development activity was having in terms of regeneration and planning development across the borough and for a review to be undertaken on the level of fees and levies charged;
- the limited impact of market gardening as an initiative designed to stimulate growth and local employment opportunities;
- the way in which the Core Strategy and planning objectives and guidelines were being applied in relation to developments across the borough, with specific examples provided of the extension of George Spicer School on Metropolitan Open Land and in Conservative Areas despite opposition from the Conservation Advisory Group;
- the detrimental impact on the appearance of the street scene by the replacement of paving slabs with tarmac;
- The delays in delivery of the housing renewal and delivery programme;

- (b) The need highlighted by members of the Majority Group in response to the issues highlighted under Opposition Business to recognise:

- the co-ordinated nature of investment being provided under the Local Implementation Plan in relation to highway, traffic and transport scheme and increased level of resident satisfaction in terms of highway maintenance across the borough;
- The programme of investment, as opposed to budget reductions, in the Waste Management and Street Cleansing service, which had seen a borough wide roll-out of the wheelie bin programme and improved recycling rates;

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- The investment and improvement in CCTV provision and monitoring across the borough;
 - The impact of the Government's Welfare Reform programme in terms of the increase in transient proportion of the population in the borough and associated pressure this created in terms of the transport, housing, health and education infrastructure;
 - The impact of the Government's Planning Policy Framework in terms of the presumption now being in favour of development;
 - The success of the efforts made to improve and enhance the environment in the borough, measured in relation to the increase from 75% - 81% in resident satisfaction with the borough as an area in which to live. 76% of residents surveyed had also said that they felt the Council was working to make the borough a cleaner and greener place in which to live;
 - The actions being undertaken in conjunction with the Sustainability & Living Environment Scrutiny Panel to improve work around bio-diversity, levels of air and water quality across the borough and to develop a sustainable programme of energy efficiency initiatives;
 - The Estate Renewal and small housing site development programmes now underway across the borough and impact that the lack of what was felt to be a joined up approach in national and regional housing and economic policy had created in relation to the provision of affordable housing.
- (c) The passionate but differing nature of the views expressed by both Groups in relation to management of environmental issues in the borough.

During the above debate the Mayor advised that the time available for Opposition Business had expired. In view of the nature of the discussion and number of members who had indicated they still wished to speak it was agreed that the time available should be extended for a further 15 minutes.

At the end of the debate Councillor Lavender was invited to sum up on behalf of the Opposition Group and highlighted the following recommendations as outcomes for the Administration to consider and comment upon:

- (a) review and reconsider support for the Market Garden initiative, in view of what were felt to be the limited benefits.
- (b) maintain an ongoing review of the Council's Transport and Traffic Management Strategy with a focus on a more coordinated approach that recognised the impact of schemes on the flow of traffic across the borough and other unintended consequences e.g. parking displacement. The review should include an analysis of the threats and opportunities presented by plans to extend operation of the tube network.
- (c) review the level of fees and charges in relation to planning and development activity and whilst recognising that not all of these were

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directly controlled by the local authority, undertake benchmarking with other authorities in order to compare the level of fees charged.

- (d) Review the level of business rates with a view to reducing them where possible, as an additional support for local business.
- (e) Provide improved training for councillors serving on the Planning Committee designed to improve the credibility of the planning process and way that decisions were made.

In responding to the debate Councillor Taylor (Leader of the Council) advised of the difficulty he had in identifying any clear actions, given what he felt to be the lack of focus and detailed evidence based recommendations within the Opposition Business paper and way in which issues had been highlighted during the debate. Councillor Lavender referred to the procedure rules on Opposition Business which stated that the debate should contain specific outcomes, recommendations or formal proposals and felt the Opposition in presenting their paper had complied with this requirement.

Councillor Taylor highlighted that the procedure also required the issue paper to set out the purpose of the Opposition Business and any recommendations for consideration, which he felt had not been done. Whilst proposals had been identified during the debate it was not felt that these had been presented in a coherent way enabling actions to be considered and identified as an outcome.

In view of the comments made in summing up a request was made for the current rules within the Opposition Business procedure to be reviewed by the Members & Democratic Services Group in order to clarify the requirements on the way that recommendations were identified and presented for consideration under Opposition Business at future Council meetings.

The proposals identified as a result of Opposition Business were not therefore approved. No vote was requested by the Leader of the Opposition on the outcome of the debate.

77

REFERENCE FROM OVERVIEW & SCRUTINY COMMITTEE: DEEPHAMS SEWAGE PLANT - PETITION

RECEIVED a report from the Director of Finance, Resources and Customer Services (No.138) outlining a reference from Overview and Scrutiny Committee (17 October 2013) in relation to the receipt of a petition regarding Deephams Sewage Plant.

Before inviting Councillor Simon (as chair of Overview & Scrutiny Committee) to formally move the report the Mayor invited Claire Whetstone (as lead petitioner) to introduce and present the petition to Council. The following issues were highlighted during the presentation:

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- The detrimental and significant impact on the quality of life of local residents and businesses caused by the smell associated with the Plant, particularly during the summer months.
- Whilst recognising the local demographic pressures behind the consideration being given to expanding capacity of the Plant, there was also a need to ensure (as part of the same process) that plans included the provision of new technology to tackle and reduce odour and the nuisance caused as a result to local residents and local businesses.
- The need to recognise the wider benefits in tackling the nuisance being caused as a result of the odour, not only in terms of local residents and businesses but also the large scale regeneration activities in the surrounding area.
- The support being sought from the Council in terms of the concerns identified and in working with Thames Water and Ofwat to ensure the necessary level of investment in new technology was provided to address the nuisance being caused by odour from the site and ensure, as far as practicable, all odours remained contained on site. This to also include partnership working with the London Borough of Waltham Forest, whose residents are also affected by the same issues.
- The strength of public feeling regarding the issue, as demonstrated by the number of people who had signed the petition in support of the action being sought.

The Mayor thanked Claire Whetstone for her introduction. Councillor Simon then moved and Councillor Constantindies seconded the report.

NOTED

1. Under the terms of the Council's Petition Scheme, Overview and Scrutiny Committee (OSC) on 17 October 2013 had received and considered the petition requesting that the Council use all of its powers to urge Thames Water to work with Ofwat in order to take action to stop the smell for the Deephams Sewage Plant entering the atmosphere and impacting on the local environment.
2. In considering the petition, OSC had also sought views from local residents and business representatives and had noted the strength of feeling expressed (particularly by young people) at the impact of the odour on the surrounding area. The concerns expressed and action being sought under the Petition received unanimous support from OSC who were also advised of plans being prepared by Thames Water for a major upgrade of the Plant in order to address capacity needs. As a result OSC had agreed to refer the Petition on to Council for consideration and endorsement of the actions identified in response.
3. Whilst recognising the need for the major upgrade of the Plant, OSC were keen to ensure that the cost benefit analysis and funding proposals being developed by Thames Water for submission to Ofwat included sufficient resource for the provision of modern technology to achieve the management of odour within the plant boundaries. It was also felt that

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the drivers for the upgrade work should include an increased focus on odour management and not only water quality.

4. Given that Thames Water had advised the cost involved in providing the level of technology required to confine odour levels within the site were likely to be above the level of cost approved by Ofwat, the OSC chair had written to Ofwat to highlight the concerns raised through the petition and Committee's support of these views and actions being sought as a result. A copy of the letter had been attached as Appendix 1 to the report, which contained a specific request for Thames Water to share their economic analysis for the upgrade works with the Local Authorities affected in order that the metrics used and values assigned to them could be reviewed. In addition a request had been made to ensure that odour generated by the Plant was contained within site boundaries as part of the upgrade works.
5. Whilst recognising the concerns highlighted by the local community and supportive of the actions identified within the Petition, the Opposition Group expressed disappointment that it did not appear the Council had taken an opportunity to address the issue when responding to a consultation in 2011 on a National Policy Statement relating to Urban Waste Water Management, which included the option of relocating as well as upgrading the existing site.
6. The need identified, in response to the concerns highlighted by the Opposition Group, to recognise the lack of viable alternative site options available and fact that Thames Waters' preferred option had therefore been redevelopment of their existing site at Deephams. Given the current position, and cross party support for tackling the concerns expressed by local residents, members felt that the focus should now be on working to ensure that Thames Water and Ofwat made sufficient resource available as part of their upgrade plans of the existing site to provide the technology available to manage any odour produced within the boundaries of the site and thus minimise impact on the surrounding local community.

Following a lengthy debate the recommendations in the report were agreed unanimously, without a vote.

AGREED

- (1) to receive the petition.
- (2) to endorse the conclusion of the Overview & Scrutiny Committee (OSC) meeting on 17 October 13, as detailed in section 4 of the report.
- (3) to note the letter from the Chair of OSC to Ofwat, as detailed in Appendix 1 of the report.

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- (4) to share residents concern about the issue and instruct officers to continue to work with Thames Water, Ofwat and London Borough of Waltham Forest to ensure that as far as practicable all odour is contained within the site as soon as possible.

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CHANGE IN ORDER OF BUSINESS

Councillor Brett moved and Councillor Taylor seconded a proposal to change the order of business on the agenda under paragraph 2.2 (page 4-5) of the Council's procedure rules to enable the meeting to take the following as the next items of business:

- Item 15.1: Motion in the name of Councillor Headley on action to tackle the issue of Female Genital Mutilation (FGM).

The change in order of the agenda was agreed without a vote.

Please note the minutes reflect the order in which the item was dealt with at the meeting.

79

MOTION & DURATION OF COUNCIL MEETING (COUNCIL PROCEDURE RULE 8)

1.1 Councillor Headley moved the following motion:

"The Council notes the recent announcements made by Public Health Minister, Jane Ellison MP of planned measures to combat the threat of Female Genital Mutilation (FGM).

In light of these announcements and comments made by the Minister in a recent London Evening Standard interview regarding her "determination to prevent child abuse that was leaving victims to face life-long physical and mental pain".

This Council instructs the Cabinet members for Children & Young People and Community Well Being and Public Health to do the following:

1. Support the Minister's position on FGM
2. Publicly declare that FGM will not be tolerated
3. Find out the extent of this problem in Enfield.

This Council agrees to work in a non-adversarial and collaborative manner to investigate FGM in Enfield and how it is affecting our community and instructs the Cabinet Members for Community Well Being and Public Health and Wellbeing Board, the opposition lead on Health and Education and the Elders and Leaders in the affected communities, to find a mechanism to better understand the issue and how we can prevent any Enfield child enduring the procedure."

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Once the original motion had been moved, Councillor Hamilton immediately moved and Councillor Orhan seconded the following amendment:

To delete and replace all wording after the first paragraph in the original motion with the following:

“The Council also notes that 25th November was White Ribbon Day and that Enfield Council was the first London Council to be awarded White Ribbon status for our work in tackling violence against women and girls.

FGM is a serious issue this Council will not tolerate. The statement from the public health Minister reflects the view held by this Council and the work it is already progressing to tackle FGM in Enfield. This includes the following:

- A recent public event was held for residents and communities by “Forward UK”, a national charity that challenges the practice of FGM. This was a well-attended event with numerous communities contributing to discussions and both men and women challenging the acceptance of this abuse.
- The Enfield Safeguarding Children’s Board has set up a task force which will be exploring FGM from January 2014. Details of this can be found on their website which is for practitioners, parents and young people.
- There is on-going discussion with health partners in respect of FGM. These are in relation to the practice, identification and reporting of this issue.
- A number of voluntary services operate in Enfield including Samafal, which provides information, support and advice on FGM and where to access help. This is both if someone is concerned about a future procedure or requires medical attention for any practice to her.

This council agrees to continue to build on the work already underway in order to stamp out this child abuse to ensure that no child in Enfield endures this procedure.

Moreover, to support the campaign against violence to women and girls, this Council calls on the coalition government to introduce statutory provisions to make personal, social and health education include a zero tolerance approach to violence and abuse in relationships.”

During the debate on the amendment a second amendment was moved by Councillor Lamprecht and seconded by Councillor Jukes to add at the end of the wording for the proposed amendment:

“In addition Enfield Council supports the Mayor of London’s call for hospitals to share more information on the victims of FGM with police and social services.”

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This was agreed as an addition to the original amendmen(without a vote).

Following a lengthy debate on this motion the Mayor advised the Council that in accordance with Council Procedure Rule 8 (page 4-8 – Part 4), the meeting was due to end at 10:15pm. As there were still a number of members from both Groups who had indicated they would like to speak on the item the Leader advised that he was minded to recommend an extension to the time of the meeting in order to allow the debate to be concluded.

Councillor Taylor therefore moved and Councillor Waterhouse seconded a procedural motion under Council Procedure Rule 8 to extend the time of the meeting for an additional period of 30 minutes. This was put to the vote and agreed, with the following result:

For: 29

Against: 1

The debate then continued and at the end of the extended time period the amendments to the motion were put to the vote and agreed, with the following result:

For: 33

Against: 13

Abstentions:0

The substantive motion (as amended and detailed below) was then agreed unanimously, without further debate:

“This Council notes the recent announcements made by Public Health Minister, Jane Ellison MP of planned measures to combat the threat of Female Genital Mutilation (FGM).

The Council also notes that 25th November was White Ribbon Day and that Enfield Council was the first London Council to be awarded White Ribbon status for our work in tackling violence against women and girls.

FGM is a serious issue this Council will not tolerate. The statement from the public health Minister reflects the view held by this Council and the work it is already progressing to tackle FGM in Enfield. This includes the following:

- A recent public event was held for residents and communities by “Forward UK”, a national charity that challenges the practice of FGM. This was a well-attended event with numerous communities contributing to discussions and both men and women challenging the acceptance of this abuse.
- The Enfield Safeguarding Children’s Board has set up a task force which will be exploring FGM from January 2014. Details of this can be found on their website which is for practitioners, parents and young people.

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- There is on-going discussion with health partners in respect of FGM. These are in relation to the practice, identification and reporting of this issue.
- A number of voluntary services operate in Enfield including Samafal, which provides information, support and advice on FGM and where to access help. This is both if someone is concerned about a future procedure or requires medical attention for any practice to her.

This council agrees to continue to build on the work already underway in order to stamp out this child abuse to ensure that no child in Enfield endures this procedure.

Moreover, to support the campaign against violence to women and girls, this Council calls on the coalition government to introduce statutory provisions to make personal, social and health education include a zero tolerance approach to violence and abuse in relationships.

In addition Enfield Council supports the Mayor of London's call for hospitals to share more information on the victims of FGM with police and social services."

80

DURATION OF COUNCIL MEETING

NOTED that in accordance with Council Procedure Rule 8 (page 4-8 – Part 4), the remaining items of business on the Council agenda were considered without debate, as the time available for the meeting (as extended) had elapsed.

81

REFURBISHMENT OF PALMERS GREEN LIBRARY

RECEIVED a report from the Director of Finance, Resources and Customer Services & Director of Regeneration, Leisure & Culture (No.96A) seeking approval to the inclusion of the scheme for the refurbishment of Palmers Green Library on the Council's Capital Programme.

NOTED

1. The recommendations in the report, approved by Cabinet on 16 October 2013.
2. The Cabinet decision had been subject to a call-in considered by Overview & Scrutiny Committee on 5 November 2013. As a result of the call-in, an outline of the options considered and further detail on the associated financial implications had been included as supplementary detail within the report, for Council's information.

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3. The revision to the report tabled on the amendment sheet at the meeting with reference to Contract Procedure Rules in section 12.2.4 (Legal Implications) of the report being amended to Property Procedure Rules.

AGREED

- (1) To approve the addition of the scheme for the refurbishment of Palmers Green Library on the Council's Capital Programme 2014-15.
- (2) To note the following recommendations agreed by Cabinet on 16 October 2013:
 - (a) To approve the overall financial proposals for expenditure and funding, as detailed within section 6 the report, including all Professional, Technical and associated costs.
 - (b) To delegate authority to the Cabinet Member for Finance and Property & the Director of Finance, Resources and Customers Services to accept a subsequent tender for construction works. **(Key Decision – Reference KD3791)**

82

FUTURE PROVISION OF SECONDARY TUITION SERVICES

RECEIVED a report from the Director of Schools and Children's Services (No.98A) seeking approval to the inclusion of the scheme for the re-provision of the Secondary Tuition Service (STS) also known as the Pupil Referral Unit (PRU) on the Council's Capital Programme.

NOTED

1. The item was accompanied by a separate Part 2 report (No.102) providing further valuation details in relation to the scheme.
2. The recommendations in the report had been approved by Cabinet on 16 October 2013.
3. The following amendments to the report, tabled on the amendment sheet at the meeting:
 - a. Figure in recommendation 2.1 to read £3.099m; and
 - b. Second sentence in section 7.1.1 to read "Based on preliminary estimates using benchmark data and assuming modular construction, the capital expenditure is expected to be £6.2m plus a £300k contingency sum, giving a total of £7.2m."

AGREED

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- (1) To note that Cabinet had agreed the following, in referring the report to Council:
- (a) To approve the additional capital funding for the proposed works and associated technical services totalling £3.099m as detailed in section 7.1 of the report and to include the revised total project value of £7.5m over 3 years in the Council's Capital Programme.
- (b) the Director of Schools & Children's Services being authorised to:
- approve expenditure for orders by operational decision for individual orders up to a maximum of £250,000 for works and technical services;
 - manage the project budget in a flexible way within the overall funding available to take account of variations between estimates and tender costs;
 - approve an appropriate procurement strategy by operational decision for works and technical services, subject to the financial restrictions set out above;
 - undertake work for and approve submission of a Planning Application.
- (c) The disposal of the two assets detailed in para 3.3 of the Part 2 report, subject to the approval of the Director of Finance, Resources & Customer Services and the Cabinet Member for Finance & Property.
- (2) To approve the additional capital requirement of £3.099m being included on the Council's Capital Programme, subject to the decision in relation to the accompanying Part 2 report being confirmed. **(Key decision – reference number 3799)**

83

REVISED PROPERTY PROCEDURE RULES

RECEIVED a report from the Director of Finance, Resources and Customer Services (No.114A) seeking approval to the adoption of revised Property Procedure Rules.

NOTED the revised Property Procedure Rules had been approved for recommendation on to Council by Audit Committee (7 November 2013) and Cabinet (13 November 2013).

AGREED to approve the revised Property Procedure Rules, as detailed within the report, for formal adoption and inclusion within the constitution.

84

REFERENCE FROM THE MEMBERS & DEMOCRATIC SERVICES GROUP - AMENDMENTS TO THE CONSTITUTION: LOCAL AUTHORITIES (FUNCTIONS & RESPONSIBILITIES) ORDER 2000 - ESTABLISHMENT OF COMPANIES

RECEIVED a report from the Director of Finance, Resources & Customer Services (No.135A) seeking approval to a change in the Constitution relating to the way in which decisions to establish companies and trusts and acquire share capital are agreed.

NOTED the proposed change in decision making arrangements had been considered and recommended on to Council by the Members & Democratic Services Group (12th November 2013).

AGREED to approve the removal of approval for the establishment of any companies or trusts and acquisition of share capital as a matter in the Constitution reserved for Council and its inclusion, in accordance with the Local Authorities (Functions & Responsibilities) Order, as an Executive function under the remit for Cabinet.

85

REFERENCE FROM COUNCILLOR CONDUCT COMMITTEE: REVIEW OF PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST COUNCILLORS & CO-OPTED MEMBERS

RECEIVED a report from the Director of Finance, Resources & Customer Services (No.139) seeking approval to amendments made to the procedure for handling complaints against Members.

NOTED the revised procedure had been considered and recommended on to Council for approval by the Councillor Conduct Committee (22 October 2013).

AGREED

- (1) To approve the amended procedure for dealing with complaints against Councillors & Co-Opted Members, as set out in Appendix A to the report.
- (2) To note the flowchart, complaint and appeal forms attached to the procedure, which would be used to administer the complaints process.

86

COUNCILLORS' QUESTION TIME (TIME ALLOWED - 30 MINUTES)

1.1 Urgent Questions

NOTED that in accordance with the criteria in the Constitution, the Mayor had accepted urgent questions from Councillor Georgiou to Councillor Taylor, Leader of the Council regarding the closure of TfL ticket offices in the Borough; and from Councillor Neville to Councillor Stafford, Cabinet

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Member for Finance & Property regarding the Council's IT contract with SERCO.

As the guillotine was in effect both questions lapsed due to lack of time.

1.2 Questions by Councillors

NOTED the forty one questions on the Council's agenda which had received a written reply from the relevant Cabinet Member & Scrutiny Chair.

87

MOTIONS

The following motions listed on the agenda, lapsed due to lack of time:

1.1 In the name of Councillor Hamilton:

"We ask this Council to note that 25th November was white ribbon day and that Enfield Council was the first London Borough to be awarded white ribbon status.

There will be a range of events during the week to call for the end of violence against women and girls; and we Enfield Council call on the coalition government to introduce statutory provisions to make personal, social and health education include a zero tolerance approach to violence and abuse in relationships".

1.2 In the name of Councillor Charalambous:

"This Council acknowledges with pride Chickenshed's contribution to arts, community and education in the London Borough of Enfield over the last 40 years and restates the Council's commitment to a continued partnership which has benefited so many of the Borough's residents."

1.3 In the name of Councillor Hamilton:

"I call on Enfield Council to urge the Government, and in particular the Ministry of Justice, to think again about their proposals for the privatisation of the probation service where they are proposing G4S and the like running the probation service.

We oppose the government's plan to privatise the probation service to make cost savings from centrally managing more offenders in the community and closing prisons. This will increase risk to Enfield residents".

88

USE OF THE COUNCIL'S URGENCY PROCEDURES

NOTED the details of the following decision taken under the Council's urgency procedure relating to the waiver of call-in and, where necessary, the notice required of a Key Decision along with the reasons for urgency. The decision had been made in accordance with the urgency procedures set out in Paragraph 17.3 of Chapter 4.2 (Scrutiny) and Paragraph 16 of Chapter 4.6 (Access to Information) of the Council's Constitution:

- (1) Decision (Rule 16): Judicial Review of the Enfield Clinical Commissioning Group (ECCG)'s decision of 25th September 2013 to close the Accident and Emergency and Maternity services at Chase Farm Hospital.

89

MEMBERSHIPS

No changes notified.

90

NOMINATIONS TO OUTSIDE BODIES

No changes notified.

91

CALLED IN DECISIONS

None received.

92

DATE OF NEXT MEETING

NOTED that the next meeting of the Council would be held at 7.00pm on Wednesday 29 January 2014 at the Civic Centre.

93

EXCLUSION OF THE PRESS & PUBLIC

AGREED to pass a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

94

FUTURE PROVISION OF SECONDARY TUITION SERVICES

RECEIVED a report from the Director of Schools & Children's Services (No.102) providing additional financial information in relation to the provision of the Secondary Tuition Service.

NOTED that recommendation in the report had been approved by Cabinet on 16 October 2013. Report No.96A (Part 1 Agenda) also refers (see Min.82 above).

AGREED to note the valuation and risk implications associated with the scheme for the future provision of the Secondary Tuition Service, as detailed within the report and as a result to confirm its inclusion on the Council's Capital Programme. **(Key Decision – Reference KD3799).**

(Exempt information as defined in Paragraph 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Schedule 12A to the Local Government Act 1972 as amended).

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Opposition Priority Business: Long Term Initiatives for the Borough

Under Opposition Business we are asking the Council to note and welcome the announcement in the Chancellor's Autumn Statement that there will be some protection for local government spending going forward, which together with the provision of longer term indicative statements also announced, will give better financial certainty.

The Opposition also notes, however, that the Administration in its budget consultation document, has played in aid the lack of long term indicative statements as an excuse to budget only for the forthcoming year. We remain particularly concerned at the folly of this lack of forward financial planning, given the Chancellor's June spending review announcement of a further reduction in financial support for the financial year 2015/16, and as a result:

- (1) ask the Council to express its regret at the Administration's failure to plan for the reductions necessary to secure a balanced budget; and
- (2) are calling on the Administration to include within its budget paper, sufficient information in relation to 2015/16 and future years' income, expenditure and foreseeable risks, and the necessary reserves and provisions to enable the Council to be satisfied that this year's budget establishes a sustainable platform for the provision of services in future year.

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Council Constitution: Part 4 Chapter 4.1 – Council Procedure Rules

13. OPPOSITION BUSINESS

(Updated: Council 23/1/08 & Council 1/4/09 & Council 11/11/09)

13.1 The Council will, at four meetings a year, give time on its agenda to issues raised by the Official Opposition Party (second largest party). This will be at the 1st meeting (June), and then the 3rd, 4th and 6th meetings out of the 7 ordinary meetings programmed each year (unless otherwise agreed between the political parties). A minimum 45 minutes will be set aside at each of the four meetings.

13.2 All Council meetings will also provide opportunities for all parties and individual members to raise issues either through Question Time, motions or through policy and other debates.

(Updated: Council 11/11/09)

13.3 The procedure for the submission and processing of such business is as follows:

(a) The second largest party shall submit to the Assistant Director, Corporate Governance a topic for discussion no later than 21 calendar days prior to the Council meeting. This is to enable the topic to be fed into the Council agenda planning process and included in the public notice placed in the local press, Council publications, plus other outlets such as the Council's web site.

(b) The Assistant Director, Corporate Governance will notify the Mayor, Leader of the Council, the Chief Executive and the relevant Corporate Management Board member(s) of the selected topic(s).

(c) Opposition business must relate to the business of the Council, or be in the interests of the local community generally.

(d) If requested, briefings on the specific topic(s) identified will be available to the second largest party from the relevant Corporate Management Board member(s) before the Council meeting.

(e) No later than 9 calendar days (deadline time 9.00 am) prior to the meeting, the second largest party must provide the Assistant Director, Corporate Governance with an issues paper for inclusion within the Council agenda. This paper should set out the purpose of the business and any recommendations for consideration by Council. The order in which the business will be placed

on the agenda will be in accordance with paragraph 2.2 of Part 4, Chapter 1 of this Constitution relating to the Order of Business at Council meetings.

- (f) That Party Leaders meet before each Council meeting at which Opposition Business was to be discussed, to agree how that debate will be managed at the Council meeting

(Updated: Council 11/11/09)

- (g) The discussion will be subject to the usual rules of debate for Council meetings, except as set out below. The Opposition business will be conducted as follows:

- (i) The debate will be opened by the Leader of the Opposition (or nominated representative) who may speak for no more than 10 minutes.

- (ii) A nominated member of the Majority Group will be given the opportunity to respond, again taking no more than 10 minutes.

- (iii) The Mayor will then open the discussion to the remainder of the Council. Each member may speak for no more than 5 minutes but, with the agreement of the Mayor, may do so more than once in the debate.

- (iv) At the discretion of the Mayor the debate may take different forms including presentations by members, officers or speakers at the invitation of the second largest party.

- (v) Where officers are required to make a presentation this shall be confined to background, factual or professional information. All such requests for officer involvement should be made through the Chief Executive or the relevant Director.

- (vi) The debate should contain specific outcomes, recommendations or formal proposals

(Updated: Council 22/9/10)

- (vii) Before the Majority party concludes the debate, the leader of the Opposition will be allowed no more than 5 minutes to sum up the discussion.

- (viii) The Majority Group will then be given the opportunity to say if, and how, the matter will be progressed.

- (ix) If requested by the Leader of the Opposition or a nominated representative, a vote will be taken

(updated Council: 22/9/10)

MUNICIPAL YEAR 2013/2014 REPORT NO. 176

MEETING TITLE AND DATE:

Members & Democratic
Services Group – 13
January 2013
Council – 29 January 2014

REPORT OF:

Director of Finance
Resources & Customer
Services
Contact: John Austin (020 8379 4094)

E mail: John.Austin@enfield.gov.uk

Agenda – Part: 1

Item: 8

**Subject: Amendments to the Constitution:
Opposition Business and Member/Officer
Protocol & Membership of Councillor
Conduct Committee**

Cabinet & Other Members consulted: n/a

1. EXECUTIVE SUMMARY

- 1.1 Members & Democratic Services Group (13 January 2014) were asked to consider the outcome of reviews undertaken into (a) the procedure for dealing with Opposition Priority Business; and (b) the Protocol for Member/Officer Relations.
- 1.2 Having considered the outcome of each review MDSG agreed to refer the changes proposed as a result to Council for consideration and formal approval.
- 1.3 In addition the report also details a recommendation from the Councillor Conduct Committee for the provision of substitute members to serve on the Committee.

2. RECOMMENDATIONS

- 2.1 Council is asked to approve (as recommended by the Members & Democratic Services Group)
 - (a) The amendments to the procedure for dealing with Opposition Priority Business, as detailed within section 3.1 and Appendix 1 of the report.
 - (b) The updated version of the Protocol for Member/Officer relations as detailed within section 3.2 and Appendix 2 of the report.
- 2.2 Council is asked to approve (as recommended by the Councillor Conduct Committee) the provision for substitute members on the Councillor Conduct Committee (as detailed in section 3.3 of the report), along with the preferred option as to when their use would apply based on the proposals outlined in section 3.3.4 of the report. Subject to approval, each Group will then be asked to nominate 2 substitute members on the Committee.

3. BACKGROUND

3.1 Opposition Priority Business Procedure

3.1.1 At the last Council meeting (27 November 2013) a request was made for a review to be undertaken of the procedure relating to Opposition Business, in terms of the way that recommendations being made to Council should be presented.

3.1.2 The Procedure rules within the Constitution (Part 1 Chapter 4.2 – section 13) relating to Opposition Business currently require:

- (a) Notification of a topic for discussion as Opposition Business no later than 21 calendar days prior to the relevant Council meeting.
- (b) The provision of an issues paper by the Opposition Group in support of the topic notified, no later than 9 calendar days prior to the relevant Council meeting for inclusion on the Council agenda, The procedure rules state that:

“This paper should set out the purpose of the business and any recommendations for consideration by Council.”

3.1.3 Under the rules for debate on Opposition Business the procedure goes on, in section 13.3 (g) (vi), to state:

“The debate should contain specific outcomes, recommendations or formal proposals.”

3.1.4 At the last Council meeting a number of specific recommendations were identified for consideration during the debate on Opposition Business, which had not been directly referred to within the issue paper circulated as part of the Council agenda. This led to queries being raised on the procedure, in terms of it being possible for detailed actions to be identified as part of any response at the meeting, without advance notice having been provided.

3.1.5 In order to clarify the procedure, MDSG were asked to consider amending the requirement in section 13.3 (g) (vi) as follows:

“The issue paper should contain details of any specific actions or recommendations being put forward for consideration as an outcome of the debate on Opposition Business.”

3.1.6 MDSG, having noted that both Groups had been consulted on the proposal, approved the proposed change for recommendation to Council. In addition the Group were asked to consider a proposal that would allow the Opposition Group to propose amendments to the initial recommendations in their issues paper. It was felt this would better

reflect the way in which other items of business are dealt with at Council meetings and provide some flexibility as the Opposition Priority business debate during the meeting was progressed. In order to clarify the position MDSG also therefore agreed to recommend that the following be included as an additional paragraph under the rules of debate for Opposition Business in section 13.3 (g):

“Amendments to the recommendations within the Opposition Business paper may be proposed by a member of the Opposition Group. They must be seconded. The member of the Opposition moving the amendment will state whether the amendment(s) is/are to replace the recommendations within the paper or be an addition to them.”

- 3.1.7 A copy of the Opposition Business Procedure with the recommended amendments show in tracked changes has been attached as Appendix 1 for consideration and approval by Council.

3.2 Protocol for Member/Officer Relations

- 3.2.1 Part 5 of the Council’s Constitution sets out the codes of conduct and protocols applicable to Members.
- 3.2.2 Chapter 5.5 sets out the protocol for Member/Officer relations and is intended to guide Members and Officers of the Council in their working relationships with each other.
- 3.2.3 The Members & Democratic Services Group (12 November 13) were presented with a report outlining a review of the Protocol undertaken in order to reflect a number of recent legislative changes and to update the document in order to ensure it remained as effective and useful as possible. At that meeting members highlighted a number of further drafting changes and an updated version of the protocol was presented to the Group at its meeting on 13 January 2014.
- 3.2.4 MDSG were supportive of the amendments made and, subject to some further minor changes agreed to recommend the updated protocol to Council for consideration and formal approval.
- 3.2.5 A copy of the updated protocol (incorporating the additional changes approved by MDSG) has been attached as Appendix 2. If required a copy showing the changes in” tracked” format can be provided to members, if they contact Jane Creer (Governance Services) on 020 8379 4093.

3.3 Membership of Councillor Conduct Committee

- 3.3.1 In addition to the issues referred by MDSG, Council is also asked to consider a Constitutional amendment referred by the Councillor Conduct Committee in relation to their membership.

- 3.3.2 At its meeting on 3 December 2103 the Committee was asked to consider guidance relating to the way that complaints and appeal hearings should be undertaken. During these discussions an issue was raised in relation to provision being made for the use of substitute members on the Committee. The Committee, by its nature, aims to operate in a non-party political way with its composition balanced politically in order to reflect this. Both Groups on the Council are currently represented by two members. Given the role of the Committee it is not always possible for members to attend meetings either where they have been arranged at short notice to consider specific issues or where the member concerned may have a specific interest in a case due to be considered.
- 3.3.3 In order to maintain the balance on the Committee, it is therefore proposed that the use of substitute members be permitted on the Councillor Conduct Committee. Both Groups have been consulted on the options available and have agreed that provision should be made for the nomination of 2 substitute members by each political group on the Committee.
- 3.3.4 In terms of available options the Majority Group are in favour of substitute members being permitted in the following circumstances:
- (a) To take the place of an ordinary member from the respective Group on the Committee where that member will be absent for the whole of the meeting. Such an appointment would apply for the entire meeting, including where the meeting is reconvened after any adjournment; or
 - (b) Where an ordinary member of the Committee is prevented from attending and participating in a meeting due to any disclosable interest they may have in an issue or complaint to be considered. In these cases the substitute appointment would only apply to the consideration of the relevant item on the agenda.

The Opposition Group are only in favour of substitute members being permitted in the case of (b) above and not in cases where members are unable to attend the Committee due to other commitments.

Whilst supportive of the use of substitute members, the different options put forward by each respective Group have been outlined in order for Council to make a final decision as to how and when the provisions should apply.

- 3.3.5 Subject to 3.3.4 above, the appointment of the two substitute members by each Group will need to be confirmed by full Council. The Committee member who then wishes to appoint a substitute member would have to notify the Monitoring Officer in writing, prior to the beginning of the relevant Committee meeting of the intended

substitution. The appointment of that substitute would then need to be reported to the relevant Committee meeting at the start of the business on the agenda.

Once notification of a substitute member has been received the ordinary member of the Committee will not (unless the notice of substitution is withdrawn prior to the start of the meeting) be entitled to attend the relevant meeting or part of the meeting to which the substitution applies as a member of the Committee.

- 3.3.6 Any members nominated as substitutes will be required to attend the necessary training in advance of them attending any meeting of the Committee.

4. ALTERNATIVE OPTIONS CONSIDERED

Not to make the changes detailed within the report. The recommended changes to the Council's Constitution in respect of Opposition Business & membership of the Councillor Conduct Committee have been designed to clarify procedures and reflect consultation undertaken with both political groups. The revision of the Member/Officer relations protocol is designed to reflect a number of recent legislative changes and ensure the protocol remains as effective and useful as possible

5. REASONS FOR RECOMMENDATIONS

To update and clarify the procedures and arrangements relating to Opposition Business, handling of complaints against members and the protocol for Member/Officer relations.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None – the changes required to the Constitution will be met from within existing resources.

6.2 Legal Implications

The changes proposed to the protocol for Member/Officer relations have been designed to reflect recent legislative changes within the Localism Act 2011 as well as update the document. The changes proposed to the procedure for dealing with Opposition Business and in relation to the introduction of substitute members on the Council Conduct Committee are matters for local discretion by the Council and have been subject to consideration with the necessary decision making bodies affected. Any changes to existing requirements within the Constitution will require formal approval by Council.

7. KEY RISKS

The changes recommended are designed to ensure that the Council's decision making procedures are as clear and easy to follow as possible. Not complying with the changes agreed as a result could open the decision making process up to potential future challenge.

8. IMPACT ON COUNCIL PRIORITIES

Fairness for All & Strong Communities

The proposed change has been designed to ensure that transparency and openness in relation to the Council's decision making arrangements is maintained.

9. EQUALITIES IMPACT IMPLICATIONS

It has not been necessary to carry out an Equalities Impact Assessment in relation to this proposal.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The proposed change has been designed to assist the Council in managing its business in as efficient and effective a way as possible.

11. PUBLIC HEALTH IMPLICATIONS

There are no specific public health implications arising from the proposals within this report.

Background Papers

None

Appendix 1: Council Constitution: Part 4 Chapter 4.1 – Council Procedure Rules

13. OPPOSITION BUSINESS

(Updated: Council 23/1/08 & Council 1/4/09 & Council 11/11/09)

13.1 The Council will, at four meetings a year, give time on its agenda to issues raised by the Official Opposition Party (second largest party). This will be at the 1st meeting (June), and then the 3rd, 4th and 6th meetings out of the 7 ordinary meetings programmed each year (unless otherwise agreed between the political parties). A minimum 45 minutes will be set aside at each of the four meetings.

13.2 All Council meetings will also provide opportunities for all parties and individual members to raise issues either through Question Time, motions or through policy and other debates.

(Updated: Council 11/11/09)

13.3 The procedure for the submission and processing of such business is as follows:

- (a) The second largest party shall submit to the Assistant Director, Corporate Governance a topic for discussion no later than 21 calendar days prior to the Council meeting. This is to enable the topic to be fed into the Council agenda planning process and included in the public notice placed in the local press, Council publications, plus other outlets such as the Council's web site.
- (b) The Assistant Director, Corporate Governance will notify the Mayor, Leader of the Council, the Chief Executive and the relevant Corporate Management Board member(s) of the selected topic(s).
- (c) Opposition business must relate to the business of the Council, or be in the interests of the local community generally.
- (d) If requested, briefings on the specific topic(s) identified will be available to the second largest party from the relevant Corporate Management Board member(s) before the Council meeting.
- (e) No later than 9 calendar days (deadline time 9.00 am) prior to the meeting, the second largest party must provide the Assistant Director, Corporate Governance with an issues paper for inclusion within the Council agenda. This paper should set out the purpose of the business and any recommendations for consideration by

Council. The order in which the business will be placed on the agenda will be in accordance with paragraph 2.2 of Part 4, Chapter 1 of this Constitution relating to the Order of Business at Council meetings.

- (f) That Party Leaders meet before each Council meeting at which Opposition Business was to be discussed, to agree how that debate will be managed at the Council meeting
(Updated: Council 11/11/09)
- (g) The discussion will be subject to the usual rules of debate for Council meetings, except as set out below. The Opposition business will be conducted as follows:
 - (i) The debate will be opened by the Leader of the Opposition (or nominated representative) who may speak for no more than 10 minutes.
 - (ii) A nominated member of the Majority Group will be given the opportunity to respond, again taking no more than 10 minutes.
 - (iii) The Mayor will then open the discussion to the remainder of the Council. Each member may speak for no more than 5 minutes but, with the agreement of the Mayor, may do so more than once in the debate.
 - (iv) At the discretion of the Mayor the debate may take different forms including presentations by members, officers or speakers at the invitation of the second largest party.
 - (v) Where officers are required to make a presentation this shall be confined to background, factual or professional information. All such requests for officer involvement should be made thorough the Chief Executive or the relevant Director.
 - (vi) “The ~~debate~~ **issue paper** should contain ~~specific outcomes, recommendations or formal proposals~~ **details of any specific actions or recommendations being put forward for consideration as an outcome of the debate on Opposition Business.**”
 - (vii) “**Amendments to the recommendations within the Opposition Business paper may be proposed by the Opposition Group. They must be seconded. The Opposition will state whether the amendment(s) is/are to replace the**

recommendations within the paper or be an addition to them.”

- (viii) The debate should contain specific outcomes, recommendations or formal proposals
(Updated: Council 22/9/10)
- (ix) Before the Majority party concludes the debate, the leader of the Opposition will be allowed no more than 5 minutes to sum up the discussion.
- (x) The Majority Group will then be given the opportunity to say if, and how, the matter will be progressed.
- (xi) If requested by the Leader of the Opposition or a nominated representative, a vote will be taken
(updated Council: 22/9/10)

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Appendix 2: Chapter 5.5 - Protocol for Member/Officer Relations

1. Introduction

- 1.1 This protocol is intended to guide members and officers of the Council in their working relations with each other. It is part of the Council's wish to uphold standards of conduct amongst councillors and officers.
- 1.2 A number of other documents also deal with standards of conduct for members and officers and lay down procedures for the proper conduct of Council business. These include:
- Local Government Act 2000
 - Localism Act 2011
 - The Council's Constitution, specifically:
 - The Code of Conduct for Members of the London Borough of Enfield (Section 5.1. of Part 5 of the Constitution)
 - The Code of Conduct for Officers (Section 5.4 of Part 5 of the Constitution)

For example, one of the general principles of the Code of Conduct for Members of the London Borough of Enfield states that "(Members) should respect the impartial role of the authority's statutory officers and its other employees".

Equally, the Code of Conduct for Officers provides that Councillors should expect staff to contribute to proper and effective working relationships, to serve the Council as a whole, to maintain political neutrality at work and be seen to be impartial.

- 1.3 Councillors and officers are servants of the public and are indispensable to one another, albeit their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to councillors and the Council, and to carry out the Council's work under its direction and control.

Mutual respect between councillors and officers is essential to good local government. However, over-close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.

- 1.4 The protocol reflects the above principles, the Council's decision-making structure and the Local Government Act 2000 and Localism Act 2011 in relation to member conduct. It has also been written with the understanding that effective working relationships are required between councillors and officers to deliver the Council's objectives.

- 1.5 Whilst not covering every eventuality, it seeks to strengthen a good working relationship, to clarify possible areas of doubt and to offer advice as to how to deal with particular situations which might arise.
- 1.6 Whilst many of the situations which fall within this protocol will undoubtedly relate to councillors and senior officers, the same aspects of conduct apply to all employees.

2. Role of Councillors

- 2.1 All elected members have a right to professional, impartial and, if appropriate, confidential advice from officers. They have a right to expect officers to uphold and carry out the values of the Council and deliver policies within the agreed framework.
- 2.2 Councillors must abide by the Code of Conduct for Members of the London Borough of Enfield and the 10 principles that underpin this code, namely selflessness, integrity, objectivity, accountability, openness, honesty, leadership, respect for others, duty to uphold the law and stewardship.
- 2.3 They must declare any special relationships with constituents (i.e. spouse, partner, civil partner, family members or persons with whom they have a close association or personal relationship) when dealing with Council officers. Although members are elected to represent the interests of their constituents, they should not seek special treatment for any individual or themselves.
- 2.4 Without prejudice to their individual rights, all members shall have regard to the advice given by the Council's Monitoring Officer and the Councillor Conduct Committee in the exercise of their functions and duties, and they shall assist the Monitoring Officer in any aspects of investigations.
- 2.5 The law and the Council's Constitution lay down rules for the appointment, discipline and dismissal of staff. Councillors must ensure that they observe these rules scrupulously at all times. If councillors are called upon to take part in the appointment of an officer, the only question they should consider is which candidate would best serve the whole Council. Section 7 of the Local Government and Housing Act 1989 requires every officer appointment to be made on merit. They should not let their political or personal preferences or prejudices influence their judgement. They should not canvass the support of their colleagues for any candidate and they should resist any attempt by others to canvass them. They should report any such attempt to the Chief Executive or the Monitoring Officer.
- 2.6 The recruitment and management of Council staff are the responsibility of the Chief Executive and the Council's Management Board. Except in cases where members are involved in the recruitment process as governed by the Officer Employment Procedure Rules, it is not appropriate for members to involve

themselves in these issues or to refer to such matters in public meetings or to the press (e.g. disciplinary cases).

- 2.7 Any act on the part of a member against an individual officer, if intended to gain unfair advantage or influence unfairly that person's actions, thoughts or deeds, may be regarded as a form of bullying, intimidation or harassment.

3. Officer Advice to Political Groups

- 3.1 There is now a statutory recognition for political groups and they are a well-established feature of local government. Officers may be called upon to give information and advice to party groups as part of the political consideration given to an issue before it reaches the formal decision making Council body. Political sensitivity and awareness are therefore required, particularly from senior officers. All members have the right to seek advice in confidence from senior officers, without it being perceived by others that the officer's political neutrality is being compromised. Whilst, in practice, such officer support is likely to be most in demand from the party group in control of the Council, it is an important principle that such support is available to all political groups.
- 3.2 Information may, from time to time, be requested by the Opposition Group from officers on a confidential basis. Providing this is not unlawful, improper, or against the interests of the Council specifically or generally, officers should respect the confidentiality of these discussions. If a councillor wishes such a discussion to be in confidence, he/she should state that to the officer at the outset. If the officer feels able to keep that confidence, then the discussion can proceed on that basis. If however the officer feels that it would not be in the best interests of the Council to keep the matter confidential, then he/she should say so at the time. The member concerned can then decide whether or not to proceed with the discussion.
- 3.3 Officers must be allowed to give support honestly but in a way that does not compromise their political neutrality. They have a right to have their professional views listened to and respected (if appropriate in confidence) – but not necessarily followed – unless failure to do so would give rise to illegal, unlawful or improper conduct or maladministration. They should not be asked to make recommendations they could not professionally support. They should not be asked to justify political decisions of the administration or to be involved in advising on party business. Officers should ideally not be present at those parts of the meeting when such business is in fact discussed.
- 3.4 Advice and information given to party group meetings by officers is no substitute to them (the officers) providing all the necessary information and advice to the relevant decision making body of the Council at the appropriate time.
- 3.5 Members may ask officers to draft papers, resolutions or amendments to be presented to meetings. Whilst it is quite in order for officers to advise on such wording (e.g. to ensure legality or accuracy) this should not be taken that the officer supports the proposal.

- 3.6 Officers may be asked to give advice and information at meetings where non councillors are present. In most instances, such people (unless co-opted to a Council body) will not be bound by the Code of Conduct for Members of the London Borough of Enfield, particularly in relation to declarations of interest and confidentiality. Therefore in such circumstances, officers may not be able to provide the same level of information as they would for a member only meeting.
- 3.7 Exceptionally, Health and Wellbeing Board members (both councillors and non-councillors) are bound by the Code of Conduct for Members of the London Borough of Enfield. Board membership includes officers and councillors as well as other health and voluntary sector representatives. All are treated as co-opted members and are subject to the Code. Officers who are full Board members will therefore be subject to both the Code of Conduct for Members and the Code of Conduct for Officers.
- 3.8 Officers must respect the confidentiality of any party group meeting they attend.
- 3.9 Officers must abide by the terms of the Code of Conduct for Officers in relation to working with councillors.
- 3.10 Officers have a line management relationship with the Chief Executive or their Director – not individual members, whatever office that member might hold.

4. Officers' Roles

- 4.1 Employees serve the Council as a whole. They must have a loyalty to all councillors, not just those of any political group and ensure that the rights of all councillors are respected.
- 4.2 Officers must at all times keep members fully informed about significant issues which affect their wards or bodies on which they represent the authority. This is fundamental to the Council's wish to enhance the representational role of councillors. For example, if the authority conducts a consultation exercise in the borough, relevant members, including ward councillors, should be notified at the beginning of the exercise.

5. Public Meetings called by Individual Councillors/Party Groups

- 5.1 Individual members or political groups may wish to hold public meetings, as part of the ward councillor role or in relation to a particular issue. Publicity for such meetings should clearly state the nature of the event and should not imply that it is a Council meeting.
- 5.2 Any request for an officer to attend such a meeting in their official capacity must be made through the Chief Executive, their Chief Officer or the

Monitoring Officer. It will be for those officers to decide if such attendance is both possible and appropriate, in the light of officer availability and priorities.

- 5.3 Any officer attending such a meeting does so in his/her official capacity. They are politically neutral and their presence does not imply support for a particular political proposal or initiative.

6. Public Meetings involving MPs, other Elected Representatives and Election Candidates

- 6.1 Where at any time an officer is invited to attend any public meeting called by or involving MPs, other elected representatives (e.g. GLA Assembly Members) or prospective candidates, such an invitation should be directed through the Chief Executive, appropriate Director or Monitoring Officer who will consult the Leader or relevant Cabinet member.
- 6.2 In the period between publication of Notice of Election (or Referendum) and polling day, the Council, its Members and its Officers must be aware of special rules designed to ensure the political impartiality of all Council publicity and communication. This period is generally known as “purdah” and will apply in the area in which the election or referendum is being held, whether that be the whole borough or one ward.
- 6.3 The Monitoring Officer will issue specific advice on purdah in the run up to any applicable electoral event, which will take the form of that set out at Appendix A.
- 6.4 If an officer is invited to attend any such public meeting in the purdah period, officers will only attend if representatives of all candidates standing in the election have been invited to the meeting. The same provisions apply in respect of local and national referendums.

7. Respect and Courtesy

- 7.1 For the effective conduct of Council business, there must be mutual respect and trust in all dealings between members and officers. As detailed in paragraph 12(2)(b) of the Code of Conduct for Members, members should not exert undue influence or inappropriately use their position in their dealings with officers. It is accepted that in some cases, discussions will be robust and challenging. Such dealings must however be conducted with courtesy, civility and professionalism, with respect for differing views and for legal and professional guidance. The way in which members and officers work together will affect the external perception of the Council overall.
- 7.2 If a member feels that they have not been treated properly by an officer, they may take the matter up with the relevant Director. If the issue remains unresolved, they may raise it further with the Chief Executive or Monitoring Officer. A breach of the Officers’ Code of Conduct could result in disciplinary action being taken against the employee concerned.

- 7.3 If an employee considers that they have been treated inappropriately by a councillor, they should raise the matter with their line manager or Director. The manager or Director will, as appropriate, discuss the matter with the member concerned or the party whip or group leader. If the matter directly relates to a group leader, the Chief Executive will be notified.
- 7.4 If the matter cannot be resolved it shall be referred to the Monitoring Officer who shall discuss the matter with at least one of the two independent persons to agree the most appropriate course of action within the Council's complaints procedure for Councillors.

8. Support Services to Members and Political Groups

- 8.1 The Council can only lawfully provide support services to members (e.g. stationery, typing, IT equipment, photo-copying, etc.) to assist them in carrying out their roles as councillors. Such support services must therefore only be used for Council business. They should never be used in conjunction with any political campaigning activity or for private purposes, unless with prior approval of the Monitoring Officer and full payment made to the Council.

9. Members' Access to Information and Council Documents

General

- 9.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Constitution and is without prejudice to rights members have to access information under the Freedom of Information Act 2000 and the Data Protection Act 1998.
- 9.2 Members have a right to request such information, explanation or advice, as they may reasonably need to assist them in carrying out their duties as a councillor. When information is requested on behalf of a third party, it must only be provided if it would be made available to a third party, on request, under the Freedom of Information Act 2000.
- 9.3 The test to be applied in relation to a member's right to information or Council document is set out in common law and relates to a "need to know" to perform their duties effectively as a councillor. Members do not have a right to a "roving commission" to examine documents – mere curiosity is not sufficient. The question of "need to know" must be determined initially by the Director who holds the document(s) in question. Councillors should not seek to obtain information where they have a Disclosable Pecuniary, personal or other pecuniary interest in the matter. In the event of dispute, the matter should be referred to the Council's Monitoring Officer.
- 9.4 For the purposes of this protocol, the term Council documents and information is applied very broadly and relates to that which is produced with Council resources. However, it should not be taken to include political documents/information.

- 9.5 Any information provided to a member must only be used for the purpose for which it was provided i.e. in connection with the proper performance of the councillor's duties.
- 9.6 Members are encouraged to use the Members Enquiry (MEQ) System, which is the most effective way to obtain appropriate information as efficiently as possible. Using the system also ensures that monitoring of service provision can be undertaken.

Meeting Documents

- 9.7 Members in law have a legal right to inspect any Council document, which contains information relating to the business to be transacted at a formal Council body. This right applies irrespective of whether the councillor requesting the information is a member of the body concerned and extends to background papers as well as reports to that meeting. The right does not however automatically apply to Part 2 papers as defined within the Local Government Act 1972 (*as amended*) as exempt and confidential information. According to the law, the member asking for the information would be expected to justify the request in specific terms, demonstrate a "need to know" in order to perform their duties as councillors which is not outweighed by any public interest requiring non disclosure, however in Enfield, the practice is to make Part 2 reports available to all members.

Documents in the possession/control of the Executive

- 9.8 Under the Local Government Act 2000, any relevant document in the possession of (or under the control of) the Executive and which contains material relating to any business to be transacted at a public meeting of the Council, will be available for inspection by any member of the Council. If the meeting is a private one (*where the relevant notice has been given*) any relevant document will be available for inspection **after** the meeting or immediately, in the case of Executive decisions by individual members or officers, after the decision has been taken. In the case of documents containing exempt or confidential information the requirements in section 9.3 above will apply. In addition Members will not be entitled to access any document (or part of it) that would involve the disclosure of advice provided by a political assistant or adviser.

Scrutiny

- 9.9 In addition, and subject to important exceptions (see paragraph 9.9.4 below) a Scrutiny Panel member will be entitled to a copy of a relevant document which:
- 9.9.1 is in the possession or under the control of the Executive
- 9.9.2 contains material relating to:

- 9.9.2.1 any business carried out at a private or public meeting of the Council or one of its decision making bodies;
 - 9.9.2.2 any decision taken by a relevant Cabinet member in accordance with the Executive arrangements; or
 - 9.9.2.3 any decision that has been made by an officer in accordance with the Executive arrangements.
- 9.9.3 The Executive will be required to provide a copy of the document as soon as reasonably practicable and in any case no later than 10 clear days after the executive has received the request.
- 9.9.4 The exceptions are where the information:
- (a) contains exempt or confidential information under the Local Government Act 1972, unless that information is relevant to:
 - Any action or decision that the member is reviewing or scrutinising;
 - Any review contained in the scrutiny work programme
 - (b) would involve the disclosure of advice provided by a political assistant or adviser
- 9.9.5 If the Executive decides that a scrutiny member is not entitled (for the reasons above) to the information requested then it must provide the Overview & Scrutiny Committee with a written statement setting out its reasons for that decision:

10. Confidentiality of Information and Reports

- 10.1 The Chief Executive and Directors have a responsibility to ensure that all reports presented to formal Council bodies are only classified as “exempt” where the statutory criteria within the Access to Information Act are met.
- 10.2 In certain circumstances (known as Part 2 restrictions) the Council may restrict the circulation of documents in accordance with the exemptions within the Access to Information Act and where it is considered by the Chief Executive and the Monitoring Officer that such disclosure could be seriously detrimental to the Council’s interests, its employees or former employees, or that of a third party. The categories of information that might be restricted include:
- 10.2.1 Where any disclosure of information would be unlawful
 - 10.2.2 Personal details of an employee, former employee or other third party

10.2.3 Details of a contract or property transaction

10.2.4 Legal or other officer advice in a contentious matter

- 10.3 Members are reminded that they are supplied with Part 2 reports in their position of trust and must therefore not disclose that information – confidentiality must be respected. Any unauthorised disclosure of information could be a breach of councillor code of conduct.
- 10.4 The emphasis must be on producing as much information in the public part of the meeting as possible and restricting the “exempt information” to an absolute minimum. Where possible reports should be split between Part 1 (public session) and Part 2 (private session) so that only the minimum information is restricted.
- 10.5 Once a report has been issued as a Part 2 paper, and until such time as the relevant Council body or officer has had the opportunity to decide otherwise, councillors and officers must respect the confidentiality of the information. It is a betrayal of trust to breach such confidences. The wilful disclosure of such information by a member or an officer is likely therefore to be viewed as a breach of their respective codes of conduct.
- 10.6 The Council will respect the rights of members to access documents and information under the ‘need to know’ principle (see paragraph 9 above). However, members do not have an absolute right to every document. They must respect the confidentiality (where appropriate) of particular information in whatever form. To disclose information, knowing it to be confidential, is likely to be deemed a breach of the Councillors’ Code of Conduct.
- 10.7 In such cases, members may inspect the documents but not copy them. Arrangements for such inspection will be made by the Monitoring Officer at the time. The times during which members may inspect such documents will be as flexible as possible.
- 10.8 In addition Council has agreed separate arrangements for Cabinet in dealing with specific reports which deal with highly sensitive, exempt or confidential information, such as those identified in 10.2 above. These are referred to as “Super Part 2” but will only be used in exceptional circumstances (recognising members’ statutory and common law rights). Under this procedure:
- 10.8.1 the Chief Executive (in consultation with the Monitoring Officer), relevant Directors and Cabinet Member(s) will agree the instances where it is felt the disclosure of particular information will be detrimental to the Council’s interests, its employees or former employees and those of third parties;

10.8.2 circulation of any Super Part 2 report(s) will be restricted to Cabinet members, the statutory officers and relevant Director plus any members in attendance at the meeting. These copies will be numbered and collected in at the end of the relevant meeting.

10.8.3 there is a requirement for all members of Cabinet as well as the Leader of the Opposition Group (or nominated representative) to be briefed on the issue prior to its consideration by Cabinet along, when the issue has specific implications on their area, with relevant ward councillors.

10.9 The procedure recognises the additional rights given to members of scrutiny in terms of access to information so scrutiny members are able to request access to Super Part 2 reports, but only where clear reasons are provided and the issue is relevant to an issue under review or included on their scrutiny work programme. The Member concerned would need to understand and agree to respect the private and confidential element of the report and if appropriate may be asked to sign a confidentiality agreement. Where the decision on which a Super Part 2 report has been considered is subject to call-in, the chair of Overview & Scrutiny Committee must be briefed on the content of the Super Part 2 report in advance of the call-in meeting and a copy of the report tabled for all members present at the call-in meeting. These copies will be numbered and collected back when the call-in has been completed at that meeting.

10.10 The Chief Executive and the Monitoring Officer have an overriding duty to ensure compliance with 10.1 – 10.9 above.

11. Correspondence

11.1 In all cases, the Council's information governance protocols and obligations under the Data Protection Act 1998 must be observed.

11.2 Correspondence between an individual councillor and an officer should not normally be copied elsewhere without the knowledge of both parties.

11.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than a member. This is particularly important if the letter creates obligations or gives instructions on behalf of the Council. It may be appropriate in certain circumstances (e.g. representations to Central Government) for a letter to be sent signed by a member (e.g. Leader of the Council), but this should be the exception rather than the rule.

12. Relationship between the Mayor and Officers

12.1 The Mayor is the first citizen of the Borough. His/her role is to be an ambassador for the authority and to chair the Council meetings. Officers must give every support to the Mayor in the execution of these duties. However, the Mayor does not have any executive powers.

13. Relationship between the Leader of the Council, the Executive and Officers

- 13.1 Whilst the Leader and individual Cabinet members have executive powers, it is essential that they recognise and acknowledge that officers are required to serve the whole Council. On the other hand, it should be accepted that officers have a duty to implement the policies and decisions of the administration. They will have to give professional advice that might, at times, be unpalatable to the majority or minority group or individual councillors but is felt to be in the best interests of the Council.

14. Relationship between Overview and Scrutiny and Executive Members and Officers

- 14.1 The Overview and Scrutiny function has within the Council's Constitution statutory rights with regard to access to information, member and officer attendance at its meetings, its role with Cabinet and conflict resolution direct to full Council. This is necessary to preserve its independence and role.
- 14.2 However the Overview and Scrutiny Committee and Scrutiny Panels have a responsibility to act reasonably and within the Constitution. The Monitoring Officer must be consulted if there are any doubts as to the legality of an Executive decision, or if it is felt that such a decision might be contrary to the Council's policy framework.
- 14.3 When calling Cabinet members, officers or other witnesses to give evidence at a scrutiny meeting, questions should be appropriate to their role. For example, questions to officers should be confined to matters of fact and explanation of any professional opinion relating to policies and decisions. Officers must however respond to questions in an open, constructive and helpful manner. Any question relating to the justification of the policies or decisions should be directed to the relevant Cabinet member. Furthermore, Scrutiny members should not ask officers questions on issues that they know to be confidential.
- 14.4 The relevant chairman of the scrutiny meeting must ensure that those giving evidence are not questioned in such a manner as could be considered by any reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable behaviour by a member. Chairmen also have a responsibility to ensure that members of the public are not allowed to disrupt the meeting or act in an aggressive or intimidatory manner.
- 14.5 Any allegations in relation 14.4 above should be referred to the Council's Monitoring Officer or to the Leader of the relevant political group.

15. Other Public Meetings

- 15.1 The same rules of behaviour in relation to scrutiny meetings apply to all other public meetings conducted by the Council e.g. Area Forums – see paragraph 14 above.

APPENDIX A

Advice on “Purdah”

In order to maintain principles of good governance and to avoid unnecessary conflict with the issues of contention at an election or referendum (i.e. a “relevant issue”), basic adherence to the general rules of purdah will apply.

This note sets out some key information which you may find helpful and forms the basis of that which will be issued prior to relevant electoral events in the Borough by the Monitoring Officer.

General Information

In the period from publication of the statutory notice of election to close of poll at 10:00pm on polling day, the Council, its Members and its Officers should be aware of the special rules designed to ensure the political impartiality of all Council publicity.

Section 6 of the Local Government Act 1986 defines “publicity” as “any communication, in whatever form, addressed to the public at large or to a section of the public”. This will include the obvious forms such as newsletters, magazines, press releases, posters and leaflets issued by the Council. It also includes the Enfield website, public meetings, local consultation exercises, exhibitions sponsored by the Council and press advertising, and can include spoken words addressed to the public or broadcast through radio, television or the Internet.

Generally, the Council must avoid:

- proactive publicity of candidates and other politicians involved directly in the electoral event;
- publicity that deals with controversial issues that could specifically be linked to a relevant issue (where this cannot be avoided, the publicity should present issues clearly and fairly with opposing points of views represented); and
- publicity that reports views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members directly involved in the electoral event.

However the Council can:

- respond to events and legitimate service enquiries provided that the answers given are factual and not political; and
- comment on a relevant issue where there is a genuine need for a Member-level response to an important event outside of the Council’s control.

Generally this means that during the election period the Council will:

- exclude all quotes from, and photographs of, Members directly involved in the electoral event in press releases, publications and other published material;
- refrain from organising photo opportunities or events which could be seen as giving candidates, Members or other political office holders directly involved in the electoral event a platform for political comment;
- postpone publications, events or promotions until after the election if proceeding could give the appearance of seeking to affect support for a political party or candidate directly involved in the electoral event;
- not comment on matters of political controversy unless to refrain from comment would be harmful to the Council’s best interests;

- avoid references in publications to the period the Administration has been in office or to the Council's future commitments if to do so could be seen to affect support for a political party or candidate directly involved in the electoral event;
- not undertake any other activity which could be seen as designed to benefit a particular political party or candidate directly involved in the electoral event.

The restrictions on publicity in an election period apply equally to publicity issued by third parties if they are assisted by Council funding. Where it could be shown that Council funding is being used to pay for, say, a charity's publicity, the Council will take reasonable steps to ensure that that organisation complies with the Code of Practice.

To be safe, the Council must plan to avoid publicity or public meetings about any locally controversial proposals or matters that could become an election or referendum issue. Events that could jeopardise our impartiality will be cancelled if they clash with the publicity restrictions during the pre-election period.

Public or committee meetings of a "business as usual" nature, unrelated to the election or referendum issues, may take place. This includes the determination of planning and licensing applications. However, everyone involved will be expected to observe the purdah constraints. The Monitoring Officer must be consulted in advance if there is any doubt as to whether a meeting might breach these guidelines.

If these rules about publicity are broken, the Council could be subject to legal challenge and, in a worst case scenario, election results could be invalidated. Officers who fail to observe the rules could be liable to disciplinary action.

Elected Members

Please note that the above restrictions generally relate to the Council and not to individual Councillors. This means that individual Councillors or political parties may contact the press directly, respond to their calls and set up their own photo shoots to promote a candidate or political party involved in the electoral event.

However, they may not use the Council's resources or facilities to do so. When at Council events, Councillors must not use that platform for political purposes. This includes Area Forums, Scrutiny Panels and other public meetings.

In such circumstances, it is acceptable to include a note on political literature along the following lines:

"To contact your councillors about any matter for which the Council is responsible, phone ... (your Council funded line).

For any XXX party/election matter, please contact ... (political office number)."

Council Staff

Council staff should exercise extreme caution if invited to any event in which candidates in the election participate.

Managers of all Council-owned buildings should seek similar advice before allowing the Council's resources to be used for any "official or unofficial" visit by a candidate or political party directly involved in the election.

Schools

The Local Education Authority has a responsibility to ensure that its resources are not used for political purposes during an election period. Its employees also have personal responsibilities.

Head teachers and school staff should not be involved in any activity (in their official capacity) that promotes or is perceived to promote a political party or any candidate or politician involved in the election. This includes the endorsement of a candidate verbally or in writing. Some Head teachers and staff have been asked to do this in the past. They should, for example, refrain from photo opportunities with you, candidates or politicians or from participating in or organising events that could give others a platform for political comment or publicity.

Officers must not give support for one political party or candidate over others as such actions could leave them open to political bias and a potential breach of the Code of Practice.

Political parties may distribute leaflets outside of the school grounds providing they are not causing an obstruction or disturbance. They should not however enter the school premises.

MUNICIPAL YEAR 2013/2014 REPORT NO. 142A

MEETING TITLE AND DATE:
CABINET, 11 December 2013
COUNCIL, 29 January 2014

REPORT OF:
Director of Finance, Resources and
Customer Services

Contact Officer: Kate Robertson

Kate.robertson@enfield.gov.uk

Agenda – Part: 1	Item: 9
Subject: Council Tax Support Scheme for 2014/15	
Wards: All	
Cabinet Member consulted: Cllr Andrew Stafford	

1. EXECUTIVE SUMMARY

In January 2013 Council agreed a new Council Tax Support Scheme to replace the previous national Council Tax Benefit Scheme which was to be abolished by the Government in April 2013.

Every year the Council is obliged to consider whether to revise or replace its local Council Tax Support Scheme. This report recommends a revised Council Tax Support Scheme for 2014/15 taking in account the assessment of options, the knowledge gained during the previous year's implementation, consultation results (Appendix C) and the Equalities Impact Assessment (Appendix B). It contains the Council Tax Support Scheme which the Council is required to produce under section 13A(1)(a) and Schedule 1A of the Local Government Finance Act 1992. The Council must adopt the same or new scheme by 31 January of the preceding financial year to which the scheme will apply. The report also recommends the 2014/15 council tax and business rate bases (Appendix D and E) and the council tax technical change (Appendix F).

2. RECOMMENDATIONS

2.1 That Council agrees the Local Council Tax Support Scheme for 2014/15 with the following amendments (see Appendix A for the full scheme):

- That working age recipients of Council Tax Support who also receive Carers Allowance, the support component of Employment Support Allowance or higher rate Disability Living Allowance (or Personal Independence Payments) are exempted from the 19.5% reduction applied to all other working age claimants.
- That working age foster carers recruited, trained and supported by Enfield Council in receipt of Council Tax Support are also exempted from the 19.5% reduction applied to all other working age claimants.

<i>Author</i>	Krobertson	<i>Classification</i>	PROTECT	<i>Date of First Issue</i>	1/11/13
<i>Owner</i>	frcs	<i>Issue Status</i>	DRAFT	<i>Date of Latest Re-Issue</i>	
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2.2 Pursuant to this report (see Appendix D for full detail) and in accordance with the Local Authorities (Calculation of the Tax Base) (England) Regulations 2012, the amount calculated by the London Borough of Enfield as its Council Tax Base for 2014/15 shall be 88,698 Band D equivalents.

2.3 Agree the Department for Communities and Local Government NNDR1 business rate base return for 2014/15 (Appendix E). Members are asked to note that the final version of the 2014-15 NNDR 1 form was not received from DCLG until 17 January 14, and officers are currently working to complete the return. The return will form Appendix E and as been marked as "To Follow" pending its completion.

2.4 In accordance with The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 members are recommended to agree the council tax technical change (see Appendix F for full detail):-

- Reduce the council tax discount for vacant dwellings undergoing major repair from 10% for up to one month to nil with effect from 1st April 2014
- Reduce the council tax discount for empty and unfurnished dwellings from 10% for up to one month to nil with effect from the 1st April 2014.

3. BACKGROUND

3.1 In 2012 the Government announced that as part of a series of welfare reforms, the national Council Tax Benefit scheme was to be abolished and replaced with local schemes. At the time, funding for the replacement local schemes was reduced and Enfield faced a £5m shortfall in funding if it kept the national scheme in its entirety.

3.2 Enfield consulted widely on a proposed local scheme and in January 2013 approved a scheme which saw pensioners and war widows protected from any change but working age claimants seeing a 19.5% reduction in support. At the same time Council agreed changes to exemptions and discounts to Council tax which saw the discount for empty and refurbished homes reduced to one month, no discount given for second homes and the introduction of a new empty homes premium of 150% of council tax for homes left empty for more than two years.

3.3 Every year the Council is obliged to consider whether to revise or replace its local Council Tax Support Scheme. This report recommends a revised Council Tax Support Scheme for 2014/15 taking in account the assessment of options, the knowledge gained during the previous year's implementation, consultation results and the Equalities Impact Assessment (see Appendix B).

4. REVIEW OF FIRST SIX MONTHS OF OPERATION

- 4.1 Collection of Council Tax has been monitored closely this year and additional support provided. Claimants of Council Tax were given the opportunity to pay in weekly instalments and new pay kiosks were introduced in Edmonton, Palmers Green, Enfield Civic Centre and Enfield Highway library. No referrals have been made to bailiffs for working age claimants of council tax support. Wherever possible the Council is seeking to agree payment arrangement plans or attachments to earnings/benefits.
- 4.2 As at the end of September 2013, the projected income levels are being met and it is estimated that the council will achieve the ultimate council tax collection rate of 96.87% for 2013/14. However a number of residents paid the year in full and this will affect the profile of income. The analysis to date is limited as the scheme has only been in place since April 2013 and a full year's collection data is not known.
- 4.3 In recognition of the difficulties faced by local households, the Council introduced a new discretionary council tax hardship scheme. Households facing exceptional financial hardship can apply to the scheme and receive help with their council tax. In the first six months of the scheme, applications were predominantly from single adults with mental health or other disability. Take up of the council tax hardship scheme has been increasing recently and it is likely to be called upon over time not simply within the current financial year. It is anticipated that this fund will roll over into 2014/15 and be topped up through the budget setting process as a way of protecting the most vulnerable.
- 4.4 In order to minimise the impact on working age claimants, the local Council Tax Support Scheme is based on the national Default scheme with some key changes, most notably that applicants of working age have their Council Tax Support assessed against 80.5%, rather than 100% of their liability. This figure was based on the level of projected grant and income, taking in account the costs of protecting pensioners and other protected groups. Due to the requirement for a scheme to be approved before a full year's collection data is known, it is not recommended to change this threshold.
- 4.5 A key principle of the scheme agreed by Council is that it is a fully funded scheme where council taxpayers are not asked to pay more to meet the Government's funding shortfall. On the basis of the council taxbase it was calculated that working age benefit recipients would need to pay an additional 19.5% to fully fund the shortfall. If the council wished to remove this principle of fully funding it would require further consultation setting out where the savings would be made. This consultation would need to be concluded before council in January in order to meet the statutory notification to precepting authorities by the 31st January.
- 4.6 Last year the Government offered a one off transitional grant if a council capped any reduction to 8.5%. In Enfield's case, the government grant did not bridge the funding shortfall and therefore it would not have been a fully funded scheme. This year the Government has announced that they will not be

providing a grant. Therefore any reduction in the percentage would need to be funded in full by the Council and the GLA.

- 4.7 For the 2013/14 council tax support scheme, the Council estimated that the shortfall in Government funding would be £4.9m and assumed a collection rate of 53% overall for council tax payers affected by the reduction.

5. CONSULTATION ON 2014/15 SCHEME AND DISCOUNTS/EXEMPTIONS

- 5.1 The Council consulted on the Local Council Tax Support Scheme for 2014/15. The consultation took place from 9 September 2013 to 18 October 2013 and was available on the Council's website, at council reception points, libraries and was sent to local voluntary and community organisations, 500 council tax payers and 500 recipients of council tax support. A press release was issued to over 70 media outlets and promoted through facebook and twitter.
- 5.3 As can be seen from Appendix C, the vast majority of comments on the impact of the proposed scheme were on its impact on disabled people who do not have the ability to work and carers where they are saving the public purse considerable resources.

6. PROPOSED AMENDMENTS TO THE SCHEME

- 6.1 The Council has taken in account the assessment of options (including keeping the current scheme), the knowledge gained during the previous year's implementation, consultation results and the Equalities Impact Assessment (See Appendix B).
- 6.2 Without a full year's collection data, it is not recommended that the 19.5% reduction for working age claimants is amended as this may result in the scheme not being fully funded. As this is a key principle of the scheme, the Council would need to reconsult before the January Council meeting. If there is a shortfall in collection, the Council will need to find the money from further savings or increased income and these alternatives would need to be in the consultation.
- 6.3 However, reflecting on the strength of feeling expressed by representative groups, the nature of hardship applications received and the opportunity to further reduce any negative equalities impacts, it is proposed that, in addition to pensioners and war widows who are already protected, the following are assessed against 100% council tax liability and therefore can, if eligible, receive 100% support:
- working age recipients of Council Tax Support who also receive Carers Allowance, the support component of Employment Support Allowance or higher rate Disability Living Allowance (or Personal Independence Payments)
 - working age foster carers recruited, trained and supported by Enfield Council in receipt of Council Tax Support

- 6.4 Current records show that 969 people on Carers Allowance, Support component of Employment Support Allowance and Higher Rate Disability Living Allowance/Personal Independence Payments would benefit from this change at an estimated cost of approximately £212,000. There are 23 foster carers who would benefit from this change at a cost of £5,447. These costs would be shared with the Greater London Authority on the basis of 78% Council:22% GLA.
- 6.5 All other aspects of the Council Tax Support Scheme remain the same as in 2013/14 except for the calculation of allowances and premiums for working age claimants which will continue to be uprated in accordance with relevant uprating of social security benefit rates and any statutory amendments. No concerns have been raised about their negative impact.

7. DISCOUNTS AND EXEMPTIONS

- 7.1 A number of comments were raised about discounts and whether to amend the current one month exemption for empty and uninhabitable homes. Some comments were concerned about charging people council tax whilst homes were going through probate or where a family has to move into residential care. In these cases, the existing scheme already provides an exemption.
- 7.2 However, with a chronic shortage of housing in the borough, some comments referred to the fact that the main beneficiary of the one month discount was private landlords. This was not acting as a disincentive for private landlords to avoid multiple voids and turnover of properties.
- 7.3 In order to encourage responsible letting with minimal void periods, this report recommends removing the one month discount currently available for empty and uninhabitable homes from 1 April 2014 (see appendix F). This would save £211,000 and would be shared with Greater London Authority on the ratio of 78% Council:22% GLA.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The Council has also considered not amending the scheme. However the experience of the first nine months of the scheme suggests that certain groups are being negatively impacted who have limited opportunities to find work and increase their income. The level of reduction of 19.5% is based on the scheme being fully funded and is calculated using the number of CTS recipients, collection rates, government grants and the cost of protecting pensioners and other protected groups. Without a full year's collection rate, it is not recommended to change the percentage as at this stage there is no evidence of either a significant reduction in claimants, increased government grant or a surplus in collection. Therefore any change to the percentage would be likely to result in the scheme no longer being fully funded and alternative funding would need to be found to bridge the shortfall. This would require a further consultation before the deadline of 31 January 2014. The Government has confirmed that they will not be providing a transitional grant this year.

9. REASONS FOR RECOMMENDATIONS

- 9.1 The recommendations contained in this report follow an assessment of options, experience of the first nine months of the scheme, the lack of a full year's collection data, the Equality Impact Assessment and the consultation. The recommended changes seek to reduce negative impacts for defined protected groups under the Equality Impact Assessment and support the Council's aims to build strong, stable communities. A number of other London boroughs already provide protection for carers and disabled adults and have ceased to provide a discount for empty or uninhabitable homes. See Appendix A for the technical changes to the scheme.

10. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

10.1 Financial implications

There are 969 current claimants that would benefit from the proposed exemption from the 19.5% reduction in support. At an average loss of £218 per annum, the estimated annual cost of providing the exemption is approximately £212,000. The cost of providing an exemption for foster carers is £5,447.

The current cost of providing the one month discount for empty and uninhabitable homes is £211,400. Both the costs of the exemption and the savings associated with the discount would be shared with the Greater London Authority on the basis of 78% Enfield Council, 22% GLA.

The savings associated with removing the one month discount for empty homes would cover the additional costs of providing protection for carers and disabled adults. The estimated cost to the Housing Revenue Account of removing the one month discount is £10,000.

10.2 Legal implications

The Council has duties within an existing legal framework to review its Council Tax Support Scheme annually. If the Council intends to revise or replace the scheme for 2014/15, it is obliged to undertake consultation with persons likely to be affected ahead of adopting a scheme and agree any revisions at a meeting of the Council by 31 January 2014. This requirement has been met.

The proposals for amendment to the Council Tax Support Scheme for 2014/15 set out in this report provide further consideration for vulnerable people, by extending the exemption from the 19.5% reduction in support applied to all other working age claimants to carers and disabled adults.

An equality impact assessment of the impact of the proposals and outcome of the consultation has been undertaken and considered, ensuring compliance

with the Council's duties generally under the Equality Act 2010 to avoid discrimination and promote equality of opportunity and access, and further monitor any possible negative impact hereafter.

The proposals for amendment recommended in this report will strengthen protection for vulnerable groups and help ensure that the Council meets its existing statutory duties in relation to vulnerable groups under the Equality Act 2010, the Child Poverty Act 2010 and Housing Act 1996.

10.3 Property Implications

None

10.4 Key Risks

The key risks relate to operational, financial and reputational concerns. There is an operational risk of failure to collect the estimated amount, e.g. if any category of exemption has not been specified and following implementation of the scheme the Council is unwilling to pursue recovery action in particular cases of default. The operational risks may be contained by trying to assist payers with supportive payment arrangements and by applying fairly the recovery process.

The financial risk is of insufficient collection rates and of caseload rises being beyond those anticipated in calculating the Local Scheme costs and deductions required from support. In the initial year of the scheme there is a risk that collection rates may be over or under stated. The opportunity to adjust anticipated ultimate collection rates in the scheme for 2015/16 will be available when the scheme for that year is set no later than 31st January 2015. Variation between the estimated and actual collection rates and caseload levels will result in either a deficit (or surplus) on the Collection Fund in future years. The current Medium Term Financial Plan assumes no variation to current assumptions.

The reputational risk is of failure to make proper provision for people on low income losing some of the current level of support. The reason for this scheme arises from a Government decision to replace the existing national scheme with local schemes with reduced grant funding and clearly considerable help will need to be available to payers facing increased Council Tax bills as a result of the change in scheme. Conversely, failure to properly pursue payment of Council Tax due in such cases would create inequality of treatment with other Council Taxpayers many of which will have income levels only marginally above the limit for obtaining Council Tax Support.

10. IMPACT ON COUNCIL PRIORITIES

10.1 Fairness for All

The draft Local Scheme retains protection for pensioners, war widows and extends the protection to carers and those with severe disabilities. The draft

scheme attempts to strike a fair balance between the interest of Council Tax Benefit recipients and those taxpayers who do not receive help with their Council Tax payments. The Council Tax Hardship Scheme provides support for those households facing exceptional financial hardship.

10.2 Growth and Sustainability

One of the drivers for the Welfare Reform programme of the Government is increasing employment and the overall level of demand for Council Tax support will depend to a considerable extent on the ability of local unemployed residents to find paid work and for those in employment to find better paid work.

The draft Local Scheme is funded by passing on the cost of reductions in full in the level of support offered to Council taxpayers. Reductions in disposable income may have an adverse impact in the local economy.

10.3 Strong Communities

The consultation exercise has shown that, as a principle, there is strong support for some payment to be made by all Council Taxpayers whether or not receiving Council Tax Support. However, combined with other welfare reform measures, there is the potential for an increase in the number of families and individuals in the borough living in poverty.

11. EQUALITIES IMPACT

The Equalities Impact Assessment for the amended scheme is attached as Appendix B. The recommendations contained in this report improve equalities outcomes for protected groups.

12. PERFORMANCE MANAGEMENT IMPLICATIONS

None.

13. PUBLIC HEALTH IMPLICATIONS

This change affects those already struggling due to the wider Government welfare changes. The implications will depend upon the success of residents gaining employment or, for those in low paid employment, obtaining better paid employment. Supporting people facing hardship and stress will be key to promoting the ability of families to provide healthy food, to pay bills and to promote sound mental health.

APPENDICES

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Appendix B – Equalities Impact Assessment

Appendix C – Consultation results

Appendix D – Council tax base

Appendix E – Business rate base – To Follow

Appendix F – Technical Changes to the Council Tax discount scheme

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London Borough of Enfield

Council Tax Support Scheme 2014/15

Appendix A to Council report

29th January 2014

London Borough of Enfield Council Tax Support Scheme 2014/15

as approved by Council 29th January, 2014



London Borough of Enfield Council Tax Reduction Scheme 2014/15

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PART 1

Introduction

Introduction

1. This scheme relates to the financial year beginning with 1st April 2013 and may be cited as the London Borough of Enfield Council Tax Support Scheme 2013/14.

PART 2

Interpretation

Interpretation

1.—(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(a);

“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(b);

“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) 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by the Work and Families Act 2006 (c.18), Schedule 1, paragraphs 33 and 34.
- (b) 2004 c.32.

- (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(a);
- (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(b) 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 a billing authority 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(c);

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

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

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

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

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

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

(a) 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance;

- relevant amendments are referenced elsewhere in these Regulations.
- (b) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.
 - (c) 2007 c.3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c.9) and section 6 of, and paragraphs 1 and 2 of Schedule 2 to, the Finance Act 2009 (c.10).
 - (d) 1995 c.18.
 - (e) 2002 c.16.
 - (f) 2007 c.5.
 - (g) 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
 - (h) 2001 asp 8.
 - (i) S.I. 2003/431 (N.I. 9).
 - (j) Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).
 - (k) 2002 c.21; section 8 is repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1 (not yet in force).

“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(a) are charged;

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

“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(c);

“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(d);

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

“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(f) 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(g) 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;

(a) 2002 c.21.
 (b) 2007 c.5. Part 1 concerns employment and support allowance; relevant amendments are referenced elsewhere in these Regulations.
 (c) 1992 c.4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c.30) and repealed by section 90 of the Welfare Reform Act 2012 (not yet in force).
 (d) 2002 c.7; that definition was amended by the Communications Act 2003 (c.21), Schedule

- 17, paragraph 158.
- (e) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1).
 - (f) Section 17A was inserted by the Welfare Reform Act 2009 (c.24), section 1 and amended by the Welfare Reform Act 2012 (c.5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force).
 - (g) 1999 c.30.

“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 or, in Scotland, on 10th April 1992;

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

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

“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(b);

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

“independent hospital”—

(a) in England means a hospital as defined by section 275 of the National Health Service Act 2006(c) that is not a health service hospital as defined by that section;

(b) in Wales has the meaning given by section 2 of the Care Standards Act 2000(d); and

(c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978(e);

“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;

(a) S.I. 2011/517.

(b) 1995 c.18, Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c33); section 4

of the Welfare Reform Act 2009 (c.24), and is repealed by the Welfare Reform Act 2012, Schedule 14, Part 1 (not yet in force).

- (c) 2006 c.41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c.7), Schedule 4, paragraph 138 (not yet in force).
- (d) 2000 c.14; section 2 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraphs 1 and 3.
- (e) 1978 c.29; section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

“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(a) 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(b);

“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, the Welsh Ministers or the Scottish Ministers 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(c); and

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- (a) Section 2(1)(b) is amended by the Welfare Reform Act 2012, Schedule 23, paragraph 24 (not yet in force); section 4 is repealed by Part 1 of Schedule 14 to that Act (not yet in force).
 - (b) 1996 c.18.
 - (c) 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.

(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(a);

“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(b);

“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(c);

“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(d);

“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(e);

“personal pension scheme” means—

(a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993(f);

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(g) or a substituted contract within the meaning of section

(a) 1972 c.70. See section 270(1) of that Act for the definition of “local authority”; a relevant amendment was made to that definition by the Local Government Act 1985 (c.51), Schedule 17.

(b) 1993 c.48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by S.I. 2007/3014.

(c) 1996 c. 18; sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22) and sections 80AA and 80BB were inserted by section 3 of the Work and

Families Act 2006 (c. 18). Relevant regulations made under these sections are S.I. 2002/2788 and S.I. 2003/921 (made under sections 80A and 80B) and S.I. 2010/1055 and S.I. 2010/1059 (made under sections 80AA and 80BB).

- (d) 1995 c.26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c.22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c.19).
- (e) 2012 c.5.
- (f) 1993 c.48; the definition of “personal pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by the Finance Act 2007 (c.11), Schedule 20, paragraph 23 and Schedule 27, Part 3.
- (g) 1988 c.1.

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(a);

- (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(b))—

- (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(c) 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(d);

“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) 2004 c.12.

(b) 2002 c.16.

(c) S.I. 2006/214; amended by S.I. 2007/1356, 2007/2869.

(d) 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I.

2002/1792.

- (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^(a) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990^(b) (functions in relation to training for employment, etc.); 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 or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978^(c);
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985^(d);
- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995^(e);
- (d) a public authority in consequence of a function under section 149 of the Equality Act 2010^(f);
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999^(g);
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001^(h);
- (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006⁽ⁱ⁾;
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006^(j);
- (i) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008^(k);
- (j) 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^(l); or
- (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

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

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

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

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- (a) 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and repealed in part by the Employment Act 1989 (c.38), Schedule 7, Part 1.
 - (b) 1990 c.35.
 - (c) 1978 c.29.
 - (d) 1985 c.68; section 105 was amended by S.I. 1996/2325; the Government of Wales Act 1998 (c.38), Schedule 8, paragraph 5 and Schedule 16, paragraph 5, and S.I. 2010/866.
 - (e) 1995 c.50; section 49A was inserted in respect of Northern Ireland by S.I. 2006/312 (N.I. 1).
 - (f) 2010 c.15.
 - (g) 1999 c.27; section 3 was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), section 137.
 - (h) 2001 asp 10.
 - (i) 2006 c.41.
 - (j) 2006 c.42.
 - (k) 2008 c.14; section 4 has been amended by section 189 of the Health and Social Care Act 2012 (c.7) but those amendments are not yet in force.
 - (l) 2008 c.17; section 193 was amended by the Localism Act 2011 (c.20), Schedule 17, paragraphs 1 and 4 and Schedule 25, Part 27.

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

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

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

“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, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise or the Welsh Ministers,

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

“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(f);

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

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(g),

(a) 1993 c.39; subsection (2) was amended by S.I. 1996/3095, 1999/1663.

(b) 1992 c.4.

(c) 2002 c.16.

(d) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part 1.

(e) 2012 c.5.

(f) 2003 c.1; subsection (2) was inserted by the Finance Act 2005 (c.7), section 19.

(g) 1991 c.56.

- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(a), 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(b); “young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA(c).

(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(d) (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(e) (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(f) (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

(a) 2002 asp 3; section 29A was substituted together with sections 29B to 29G for section 29 as originally enacted by section 21 of the Water Services etc. (Scotland) Act 2005 (asp 3).

(b) 2002 c.21.

(c) Section 142 was amended by section 1 of the Child Benefit Act 2005 (c.6).

(d) 1995 c.18; section 19 (together with sections 19A to 19C), has been substituted by section 46 of the Welfare Reform Act 2012 (c.5) but that amendment is not yet in force (sections 19A to 19C are however); section 17A has been repealed by Part 4 of Schedule 14 to that Act although that provision is not yet in force. In the meantime amendments have been made to section 17A by sections 48 and 59 of, and Schedules 7 and 14 to, the 2012 Act.

(e) 2001 c.11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c.24); sections 31, 113, 118, 119, 121 and 147 of, paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c.5), of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c.16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c.5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.

(f) 2007 c.5.

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(a) (small amounts of state pension credit).

Application of scheme: pensioners and persons who are not pensioners

3.—(1) This scheme applies to—

- (a) pensioners who fall within any of classes A to C(b); and
- (b) persons who are not pensioners who fall within any of classes D to F(c).

(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, and 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.

Meaning of “couple”

4.—(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.

Polygamous marriages

5.—(1) This paragraph applies to any case where—

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- (a) S.I. 2002/1792.
 - (b) See paragraphs 13 to 15 of this scheme.
 - (c) See paragraphs 16 to 18 of this scheme.

- (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.

Meaning of “family”

6.—(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^(a) 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^(b) (exclusion from benefits) applies.

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

7.—(1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom 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.

Households

8.—(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.

^(a) Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).
^(b) 2000 c.35.

(2) A child or young person is not 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(a) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out or placed with the applicant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002(b) or the Adoption Agencies (Scotland) Regulations 2009(c) or the Adoption (Northern Ireland) Order 1987(d).

(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, or in Scotland is in the care of, a local authority under a relevant enactment; or
- (b) has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

(4) 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(e);
- (b) the Air Force Act 1955(f);
- (c) the Naval Discipline Act 1957(g);
- (d) the Matrimonial Proceedings (Children) Act 1958(h);
- (e) the Social Work (Scotland) Act 1968(i);
- (f) the Family Law Reform Act 1969(j);
- (g) the Children and Young Persons Act 1969(k);
- (h) the Matrimonial Causes Act 1973(l);
- (i) the Children Act 1975(m);
- (j) the Domestic Proceedings and Magistrates’ Courts Act 1978(n);

(a) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but not yet in force in Wales. Section 59(1)(a) was amended by section 49 of the Children Act 2004 (c.31) and paragraph 2 of Schedule 1 to the Children and Young Persons Act 2008.

(b) 2002 c.38.

(c) S.I. 2009/154.

(d) S.I. 1987/2203 (N.I. 22).

(e) 1955 c.18.

(f) 1955 c.19.

(g) 1957 c.53.

(h) 1958 c.40.

(i) 1968 c.49.

(j) 1969 c.46.

(k) 1969 c.54.

(l) 1973 c.18.

(m) 1975 c.72; this Act was repealed in respect of England and Wales by Schedule 15 to the Children Act 1989 (c.41). It continues to have effect in Scotland.

(n) 1978 c.22.

- (k) the Adoption and Children (Scotland) Act 2007^(a);
- (l) the Family Law Act 1986^(b);
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995^(c) and the Children’s Hearings (Scotland Act 2011 and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012^(d).

Non-dependants

9.—(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

(a) 2007 asp 4.
 (b) 1986 c.55.
 (c) 1995 c.36.
 (d) 2012 c.10.

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.

Remunerative work

10.—(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

Procedure for reduction applications and appeals against reduction decisions

11. 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

Classes of person entitled to a reduction under this scheme

12.—(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.

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

13. 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^(a);
- (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.

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

14. 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.

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

(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;

(a) See section 6(5) of the Local Government Finance Act 1992 for the meaning of "resident" in relation to a dwelling.

- (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.

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

16. 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.

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

17. 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 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.

Class F: alternative maximum council tax reduction – persons who are not pensioners

No alternative maximum Council Tax reduction shall apply on any day to Class F which consists of any person who is not a pensioner.

Periods of absence from a dwelling

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

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

- (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
 - (i) the person resides in that accommodation;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
- (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
 - (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as—
 - (i) the person intends to return to the dwelling;
 - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
 - (iii) the person is a person to whom sub-paragraph (3) applies; and
 - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(3) This sub-paragraph applies to a person who—

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
 - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
 - (ii) in premises approved under section 13 of the Offender Management Act 2007(a),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) 2007 c.21.

- (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^(a), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003^(b) or the Criminal Procedure (Scotland) Act 1995^(c) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986^(d)); and
 - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952^(e) or the Prisons (Scotland) Act 1989^(f).
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
 - (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention;
 - (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.
- (6) In this paragraph—
- “medically approved” means certified by a medical practitioner;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “residential accommodation” means accommodation which is provided in—
- (a) a care home;
 - (b) an independent hospital;
 - (c) an Abbeyfield Home; or
 - (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
- “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

PART 5

Classes of person excluded from this scheme

Classes of person excluded from this scheme

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

Class of person excluded from this scheme: persons treated as not being in Great Britain

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

(a) 1983 c.20.
 (b) 2003 asp 13.
 (c) 1995 c.46.
 (d) S.I. 1986/595 (N.I. 4).
 (e) 1952 c.52.
 (f) 1989 c.45.

(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(a);
- (b) Regulation 14 of the EES Regulations, but only in a case where the right exists under that Regulation because the person is –
- (c) (i) a jobseeker for the purpose of the definition of ‘qualified person’ in regulation 6(1) of those Regulations, or
- (d) (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- (e) (ab) Article 45 of the Treaty on the functioning of the European Union (a) (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland);

(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 who has been granted or who is deemed to have been granted leave outside the rules made under section 3(2) of the immigration Act 1971(b) where that leave is –
- (f) (i) discretionary leave to enter or remain in the United Kingdom
- (g) (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012 or
- (h) (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulation 2005.
- (i) a person who has humanitarian protection granted under those rules;
- (j) 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(d) 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.
- (k) (i) in receipt of income support, an income based jobseeker’s allowance or on an income related employment and support allowance or
- (l) (ii) a person who is treated as a worker for the purpose of the definition of ‘qualified person’ in regulation (6)1 of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker authorisation) Regulations 2013 -e (right of residence of a Croatian who is an ‘accession state national subject to worker authorisation).

(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^(e);

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006^(f).

(a) OJ No L 158, 30.4.04, p 77.

(b) A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83.

(c) 1971 c.77.

(d) 1999 c.33.

(e) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c.41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.

(f) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544, 2012/1547, 2012/2560.

Class of person excluded from this scheme: persons subject to immigration control

22.—Subject to paragraph 1A

23(1) Persons subject to immigration control are not entitled to a reduction under this scheme.

24 Paragraph 1A - A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance done in Paris on 11 December 1953 or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18 October 1961) and who is lawfully present in the United Kingdom is not a person subject to immigration control for the purpose of paragraph (1)

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

Class of person excluded from this scheme: capital limit

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

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

Class of person excluded from this scheme: students

24. 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

Applicable amounts: pensioners

25.—(1) The applicable amount for a pensioner(b) 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 of either party to the marriage who is additional to the party to the other 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(c).

(a) See Part 10, Chapters 1 and 7, of this scheme in relation to the capital of an applicant and the calculation of tariff income

- from capital.
- (b) Including pensioners in polygamous marriages, by virtue of paragraph 5 of the scheme.
- (c) S.I. 2005/3360.

Applicable amounts: persons who are not pensioners

26.—(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 (a));
- (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(b);

“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(c).

Polygamous marriages: persons who are not pensioners

27.—(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 sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 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;

(a) The amount of the components is set out in Part 6 of that Schedule.
 (b) S.I. 2008/794.
 (c) S.I. 2005/3360.

- (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).

Applicable amount: persons who are not pensioners who have an award of universal credit

28.—(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(a).

PART 7

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

Maximum council tax reduction amount under this scheme: pensioners and persons who are not pensioners

29.—(1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax reduction amount in respect of a day is:

- (a) 100 per cent of the amount A/B if the applicant is a pensioner;
- (b) save as excepted for at (c) and (d) below, 80.5 per cent of the amount A/B if the applicant is a person who is not a pensioner;
- (c) 100 per cent of the amount A/B if the applicant is not a pensioner but is in receipt of any of the following--
 - (i) Carers Allowance;
 - (ii) Higher Rate Disability Living Allowance including care and mobility components;
 - (iii) Personal Independence Payment
- (d) 100 per cent of the amount A/B if the applicant is not a pensioner but is a foster carer registered

with Enfield Council.

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-dependent deductions: pensioners and persons who are not pensioners).

(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.

Non-dependant deductions: pensioners and persons who are not pensioners

30.—(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, £20.50 x 1/7;
- (b) in respect of a non-dependant aged 18 or over to whom paragraph (a) does not apply, £3.70 x 1/7.

(2) In the case of a non-dependant aged 18 or over to whom sub-paragraph (1)(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is—

- (a) less than £188.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b); is £3.70
- (b) not less than £188.00 but less than £326.00, the deduction to be made under this paragraph is £7.45;
- (c) Not less than £326.00 but less than £406.00, the deduction to be made under this paragraph is £9.40.
- (d) Not less than £406.00. The deduction to be made under this paragraph is £20.50.

(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 section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
 - (c) he is a full-time student within the meaning of Part 11 (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.
 - (iii) He is not residing with the applicant because he is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(a) who is absent, while on operations, from the dwelling usually occupied as their home.
- (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

Alternative maximum council tax reduction under this scheme: pensioners and persons who are not pensioners

31.—(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

Amount of reduction under this scheme: Classes A to F

32.—(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(a), 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(b), 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 or F(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) As to which, see paragraphs 13 and 16 respectively.
(b) As to which, see paragraphs 14 and 17 respectively.
(c) As to which, see paragraphs 15 and 18 respectively.

- (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

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

33. (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.

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

34.—(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

Applicant in receipt of guarantee credit: pensioners

35. 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.

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

36. (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^(a).

(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^(b) (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 sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).

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

(5) This sub-paragraph applies if—

(a) See paragraph 22A for the capital limit for eligibility of £16,000.

(b) Section 13A is substituted by section 10 of the Local Government Finance Act 2012 (c.17).

- (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

Calculation of income and capital: persons who are not pensioners who have an award of universal credit

37.—(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

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

38. 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).

Meaning of “income”: pensioners

39.—(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(a), in any case where article 31(2)(c) applies;
- (i) income from capital(b) 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(c);
 - (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);

(a) S.I. 2011/517.

(b) See paragraph 71 for the calculation of income from capital so far as relating to pensioners.

(c) Part 12ZA was inserted by section 2 and Part 12ZB was inserted by section 4 of the Employment Act 2002 (c.22).

- (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^(a) (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^(b);
- (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^(c),
 - (ii) the Civil List Act 1937^(d),
 - (iii) the Civil List Act 1952^(e),
 - (iv) the Civil List Act 1972^(f), or
 - (v) the Civil List Act 1975^(g);
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—

^(a) S.I. 2006/606.
^(b) 1979 c.41.
^(c) 1837 c.2.
^(d) 1937 c.32.
^(e) 1952 c.37.
^(f) 1972 c.7.
^(g) 1975 c.82.

- (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(a);
- (b) the Social Security (Hospital In-Patients) Regulations 1975;
- (c) section 30DD or section 30E of the SSCBA(b) (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.

Calculation of weekly income: pensioners

40.—(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.

(a) S.I.1979/597.

(b) Section 30DD was inserted by the Welfare Reform and Pensions Act 1999 (c.30), section 63; section 30E was inserted by the Social Security (Incapacity for Work) Act 1994 (c.18), section 3. Both sections are repealed by the Welfare Reform Act 2007 (c.5), Schedule 8 (not yet in force).

- (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.

Earnings of employed earners: pensioners

41.—(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^(a);
- (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^(b) 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).

Calculation of net earnings of employed earners: pensioners

42.—(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

^(a) S.I. 2001/1004.

^(b) 1996 c.17.

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
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(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^(a) (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.

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

Calculation of earnings of self-employed earners: pensioners

43.—(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.

Earnings of self-employers earners: pensioners

44.—(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(a) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995(b); or
 - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009(c) or who is a kinship carer under those Regulations;
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (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(d);
 - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006(e); or
 - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(f);

(a) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but is not yet in force in Wales.

(b) 1995 c.36; section 26 was amended by paragraph 1 of Schedule 3 to the Adoption and Children (Scotland) Act 2007 (asp 4).

(c) S.I. 2009/210.

(d) 1948 c.29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c.19).

(e) 2006 c.41. The Commissioning Board is established under section 1H of that Act (inserted by section 9 of the Health and Social Care Act 2012 (c.7)); section 14D was inserted by section 25 of the 2012 Act.

(f) 2006 c.42.

- (e) any sports award.

Notional income: pensioners

- 45.—**(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^(a).
- (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.

(a) 1965 c.51.

(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^(a), 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^(b).

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

Income paid to third parties: pensioners

46.—(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, in Scotland, the estate of that person is subject to

(a) S.I. 2005/454.

(b) 2004 c.12.

sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(a);

- (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

Average weekly earnings of employed earners: persons who are not pensioners

47.—(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(b).

(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).

Average weekly earnings of self-employed earners: persons who are not pensioners

48.—(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).

(a) 1980 c.46.

(b) Powers in section 14A of the LGFA 1992 may be used to confer power to require employers to provide information for these purposes.

Average weekly income other than earnings: persons who are not pensioners

49.—(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).

Calculation of weekly income of employed earners: persons who are not pensioners

50.—(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.

Earnings of employed earners: persons who are not pensioners

51.—(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, or a corresponding payment under any enactment having effect in Northern Ireland;
 - (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
 - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

Calculation of net earnings of employed earners: persons who are not pensioners

52.—(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
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

(4) In this paragraph "qualifying contribution" means any sum which is payable periodically as a contribution towards a personal pension scheme.

(5) The amount in respect of any qualifying contribution is to be calculated by multiplying the daily amount of the qualifying contribution by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying contribution is to be determined—

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(6) Where the earnings of an applicant are estimated under paragraph 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^(a) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Earnings of self-employed earners: persons who are not pensioners

53.—(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

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

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.

Calculation of income other than earnings: persons who are not pensioners

54.—(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(a), 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—

$$(A - (BuC)) / D$$

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)

(a) S.I. 2008/794.

(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.

Capital treated as income: persons who are not pensioners

55.—(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.

Notional income: persons who are not pensioners

56.—(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^(a) (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^(b);
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980^(c);
 - (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

(a) 1994 c.21.
 (b) S.I. 1996/207.
 (c) 1980 c.46.

- (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^(a) (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

Calculation of income on a weekly basis

57.—(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) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) ("2012 Act"); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

- (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.

Treatment of child care charges

58.—(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(a); or

(a) S.I. 1987/1967.

- (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^(a).
- (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^(b); or
 - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010^(c); or
 - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010^(d); or
 - (e) by—

^(a) S.I. 1975/556.
^(b) S.I. 1999/3110.
^(c) 2010 c.1.
^(d) S.I. 2010/2574 (W.214).

- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010^(a); or
 - (ii) local authorities registered under section 83(1) of that Act,
where the care provided is child minding or day care of children within the meaning of that Act; or
 - (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
 - (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006^(b); or
 - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
 - (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
 - (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
 - (k) by a foster parent or kinship carer under the Fostering Services Regulations 2011^(c), the Fostering Services (Wales) Regulations 2003^(d) or the Looked After Children (Scotland) Regulations 2009^(e) in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
 - (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010^(f) and being a regulated activity prescribed by those Regulations; or
 - (m) by a person who is not a relative of the child wholly or mainly in the child’s home.
- (9) 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;

(a) 2001 asp 8.
 (b) 2006 c.21.
 (c) S.I. 2011/581.
 (d) S.I. 2003/237.
 (e) S.I. 2009/210.
 (f) S.I. 2010/781; amended by S.I. 2012/1513.

- (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) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- (n) 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^(a) or under section 46 of the National Health Service (Scotland) Act 1978^(b) or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972^(c).

(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, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.

(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

(a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
 (b) 1978 c.29.
 (c) S.I. 1972/1265 (N.I. 14).

- (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA(a), 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(b); 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.

Calculation of average weekly income from tax credits

59.—(1) This paragraph applies where an applicant receives a tax credit.

(2) Where this paragraph applies, the period over which a tax credit is to be taken into account is the period set out in sub-paragraph (3).

(3) Where the instalment in respect of which payment of a tax credit is made is—

- (a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;
- (b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;
- (c) a two weekly instalment, the period is 14 days, commencing 6 days before the day on which the instalment is due to be paid;
- (d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

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

Disregard of changes in tax, contributions etc.

60. In calculating the applicant's income the authority may disregard any legislative change—

(a) 1992 c.4; section 164 was amended by paragraph 12 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of Schedule 7 and paragraph 1 of Schedule 8 to, the Employment Act 2002 (c.22).

(b) S.I. 1987/1967; Schedule 1B was inserted by S.I. 1996/206.

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

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

Calculation of net profit of self-employed earners

61.—(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(a), 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,

(a) S.I. 1975/529.

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 thereunder in respect of—
 - (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where 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.

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

62.—(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^(a) (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.

(a) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

CHAPTER 7

Capital

Calculation of capital

63.—(1) The capital of an applicant^(a) 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.

Income treated as capital: persons who are not pensioners

64.—(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.

(a) See paragraph 22A for the capital limit for eligibility of £16,000.

(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.

Calculation of capital in the United Kingdom

65. Capital which an applicant possesses in the United Kingdom is to be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

66. 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.

Notional capital

67.—(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, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(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.

Diminishing notional capital rule: pensioners

68.—(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.

Diminishing notional capital rule: persons who are not pensioners

69.—(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.

Capital jointly held

70. 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.

Calculation of tariff income from capital: pensioners

71. The capital of an applicant who is a pensioner, calculated in accordance with this Part(a), is to be treated as if it were a weekly income(b) 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.

Calculation of tariff income from capital: persons who are not pensioners

72. The capital of an applicant who is not a pensioner, calculated in accordance with this Part(c), is to be treated as if it were a weekly income(d) 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.

(a) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 9.
 (b) Income from capital is taken into account in calculating the income of an applicant who is a pensioner; see paragraph 39(1)(i).
 (c) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 10.
 (d) Income from capital is taken into account in calculating the income of an applicant who is not a pensioner; see paragraph 57(1)(b)(ii).

PART 11

Students

CHAPTER 1

General

Interpretation

73.—(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^(a) for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980^(b);
- (c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;
- (d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the 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^(c); or
- (e) Financial Contingency Funds made available by the Welsh Ministers;

“college of further education” means a college of further education within the meaning of Part 1 of the Further and Higher Education (Scotland) Act 1992;

“contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder’s expenses—
 - (i) the holder of the allowance or bursary;
 - (ii) the holder’s parents;
 - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder’s spouse or civil partner;

(a) 1992 c.13.
(b) 1980 c.44.
(c) 2009 c.22.

“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^(a) (“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;

(a) S.I. 2003/1994; relevant amending instrument is S.I. 2008/1477.

“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^(a), 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.

Treatment of students

74. This scheme has effect in relation to students who are not pensioners subject to the following provisions of this Part.

Students who are excluded from entitlement to a reduction under this scheme

75.—(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^(b).

(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;

(a) 1998 c.30.

(b) See paragraph 21 as to persons treated as not being in Great Britain.

- (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(a).

(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

Calculation of grant income

76.—(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

(a) 1988 c.40.

(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(a).

(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.

Calculation of covenant income where a contribution is assessed

77.—(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).

(a) 1998 c.30.

Covenant income where no grant income or no contribution is assessed

78.—(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).

Relationship with amounts to be disregarded under Schedule 8

79. 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).

Other amounts to be disregarded

80.—(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.

Treatment of student loans

81.—(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.

Treatment of payments from access funds

82.—(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.

Disregard of contribution

83. Where the applicant or his partner is a student and, for the purposes of assessing a contribution to the student's grant or student loan, the other partner's income has been taken into account, an amount equal to that contribution must be disregarded for the purposes of assessing that other partner's income.

Further disregard of student's income

84. Where any part of a student's income has already been taken into account for the purposes of assessing his entitlement to a grant or student loan, the amount taken into account must be disregarded in assessing that student's income.

Income treated as capital

85.—(1) Any amount by way of a refund of tax deducted from a student's covenant income must be treated as capital.

(2) An amount paid from access funds as a single lump sum must be treated as capital.

(3) An amount paid from access funds as a single lump sum which is intended and used for an item other than food, ordinary clothing or footwear, household fuel or rent, or which is used for an item other than any council tax or water charges for which that applicant or member is liable, must be disregarded as capital but only for a period of 52 weeks from the date of the payment.

Disregard of changes occurring during summer vacation

86. 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

Extended reductions: pensioners

87. Paragraphs 88 to 93 apply in relation to applicants who are pensioners.

Extended reductions (qualifying contributory benefits): pensioners

88.—(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).

Duration of extended reduction period (qualifying contributory benefits): pensioners 89.—

(1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant who is receiving the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): pensioners

90.—(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.

Extended reductions (qualifying contributory benefits)—movers: pensioners 91.—

(1) This paragraph applies—

- (a) to a mover^(a); 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.

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

92.—(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

(a) See also paragraph 103 in relation to persons moving into the area of the authority from another authority's area.

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).

Continuing reductions where state pension credit claimed: pensioners 93.—

(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

Extended reductions: persons who are not pensioners

94. Paragraphs 95 to 104 apply in relation to applicants who are not pensioners.

Extended reductions: persons who are not pensioners

95.—(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 F 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(a) (remunerative work: housing costs) applied to that applicant.

Duration of extended reduction period: persons who are not pensioners

96.—(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

(a) S.I. 1987/1967.

the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant to whom the extended reduction is payable has no liability for council tax, if that occurs first.

Amount of extended reduction: persons who are not pensioners

97.—(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 F 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 F 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 F, 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.

Extended reductions—movers: persons who are not pensioners 98.—

(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.

Relationship between extended reduction and entitlement to a reduction by virtue of classes D to F

99.—(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).

Extended reductions (qualifying contributory benefits): persons who are not pensioners

100.—(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 (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 F where—

- (a) the applicant ceased to be entitled to a reduction under this scheme because the applicant vacated the dwelling in which the applicant was resident;
- (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
- (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

Duration of extended reduction period (qualifying contributory benefits): persons who are not pensioners

101.—(1) Where an applicant is entitled to an extended reduction (qualifying contributory benefits), the extended reduction period starts on the first day of the reduction week immediately following the reduction week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying contributory benefit.

(2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying contributory benefit on the day immediately following the last day of entitlement to that benefit.

(3) The extended reduction period ends—

- (a) at the end of a period of four weeks; or
- (b) on the date on which the applicant entitled to the extended reduction (qualifying contributory benefits) has no liability for council tax, if that occurs first.

Amount of extended reduction (qualifying contributory benefits): persons who are not pensioners

102.—(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 F 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 F 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 F, 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.

Extended reductions (qualifying contributory benefits)—movers: persons who are not pensioners

103.—(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.

Relationship between extended reduction (qualifying contributory benefits) and entitlement to reduction by virtue of classes D to F

104.—(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

Extended reductions: applicant moving into the authority's area

105. 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

Date on which entitlement begins

106.—(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.

Date on which change of circumstances is to take effect

107.—(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^(a) (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.

^(a) Section 11A was inserted by section 75(1) of the Local Government Act 2003 (c.26).

(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.

Change of circumstances where state pension credit in payment 108.—

(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)

Making an application 109.—

(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) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000^(a) who has power to apply or, as the case may be, receive benefit on his behalf; or
- (c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971^(b), the Enduring Powers of Attorney Act 1985^(c) or the Mental Capacity Act 2005 or otherwise,

(a) 2000 asp 4.

(b) 1971 c.27.

(c) 1985 c.29.

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.

Date on which an application is made

110.—(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.

Back-dating of applications: pensioners

111.—(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).

Back-dating of applications: persons who are not pensioners 112.—

- (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.

Information and evidence

113.—(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^(a);
 - (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

(a) As to which, see paragraph 21.

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^(a);
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

114.—(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.

(a) For provisions requiring a pension fund holder to provide information to the billing authority see regulations under section 14A of the Local Government Finance Act 1992.

(7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

Duty to notify changes of circumstances

115.—(1) Subject to sub-paragraphs (3), and 9 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;
- (b) in the case of a person falling within class F (persons who are not 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 income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, 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

Decision by authority

116. 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.

Notification of decision

117.—(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^(a).

(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) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000^(b) who has power to apply or, as the case may be, receive benefit on the person's behalf; or
 - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- (c) a person appointed by the authority under paragraph 109(3).

PART 16

Circumstances in which a payment may be made

Payment where there is joint and several liability 118.—

(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

(a) See paragraphs 8 to 10 of Schedule 1.

(b) 2000 asp 4.

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

Interpretation

12. 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.

Conditions for the use of electronic communication

13.—(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.

Use of intermediaries

14. The authority may use intermediaries in connection with—

- (a) the delivery of any information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

Effect of delivering information by means of electronic communication

15.—(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.

Proof of identity of sender or recipient of information

16. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such information delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, is to be presumed to be the person whose name is recorded as such on that official computer system.

Proof of delivery of information

17.—(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.

Proof of content of information

18. 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

Applicable amounts: pensioners

PART 1

Personal allowances

Personal allowance

1. The amount specified in column (2) below in respect of each person or couple specified in column (1) is the amount specified for the purposes of paragraph 25(1)(a).

<i>Column (1)</i>	<i>Column (2)</i>
<i>Person, couple or polygamous marriage</i>	<i>Amount</i>
(1) Single applicant or lone parent—	(1)
(a) aged under 65;	(a) £148.35;
(b) aged 65 or over.	(b) £165.15.
(2) Couple—	(2)
(a) both members aged under 65;	(a) £226.50;
(b) one or both members aged 65 or over.	(b) £247.20

- | | |
|-------------------------------------------------------------------------------------------------------------------------------|--------------|
| (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) £226.50; |
| (b) for each additional spouse who is a member of the same household as the applicant. | (b) £82.50. |
| (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) £247.20; |
| (b) for each additional spouse who is a member of the same household as the applicant. | (b) £82.05. |
-

Child or young person amounts

2.—(1) The amounts specified in column (2) below in respect of each person specified in column (1) are the amounts, for the relevant period specified in column (1), specified for the purposes of paragraph 25(1)(b).

<i>Column (1)</i>	<i>Column (2)</i>
<i>Child or young person</i>	<i>Amount</i>
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	(a) £66.33;
(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) £66.33.

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

PART 2

Family premium

Family premium

3. The amount for the purposes of paragraph 25(1)(c) in respect of a family of which at least one member is a child or young person is £17.45..

PART 3

Premiums

4. 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.

Severe disability premium

6.—(1) The condition is that the applicant is a severely disabled person.

(2) For the purposes of sub-paragraph (1), an applicant is to be treated as being a severely disabled person if, and only if—

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or 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) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.

(5) For the purposes of sub-paragraph (4), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account 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 thereunder;
- (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^(a) (loss of benefit).

Enhanced disability premium 7.—

(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

^(a) 2001 c.11.

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).

Disabled child premium

8. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance, 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.

Carer premium

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

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

- (a) the person in respect of whose care the carer's allowance has been awarded dies; or
- (b) the person in respect of whom the premium was awarded ceases to be entitled, or ceases to be treated as entitled, to a carer's allowance,

this paragraph 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.

Persons in receipt of concessionary payments

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

Person in receipt of benefit

11. For the purposes of this Part 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 premium specified in Part 3****12.—(1) Severe Disability Premium—**

<i>Provision</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £61.10
(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) £61.10;
(ii) in a case where there is no-one in receipt of such an allowance.	(ii) £122.20.
(2) Enhanced disability premium.	(2) £24.08 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) £59.50 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied
(4) Carer Premium.	(4) £34.20. 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)—

<i>Column (1)</i>	<i>Column (2)</i>
<i>Person or couple</i>	<i>Amount</i>
(1) A single applicant who—	(1)
(a) is entitled to main phase employment and support allowance;	(a) £72.40
(b) is aged not less than 25;	(b) £72.40
(c) is aged not less than 18 but less than 25.	(c) £57.38.
(2) Lone parent.	(2) £72.40.

(3) Couple. (3) £113.70.

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)—

<i>Column (1)</i>	<i>Column (2)</i>
<i>Child or Young person</i>	<i>Amount</i>
Person in respect of the period—	
(a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday;	£66.33
(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.	£66.33

(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, £17.45.

(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(a) applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and

(a) S.I. 1979/597.

- (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^(a), 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

(a) S.I. 2002/2005.

- (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^(a) or under section 46 of the National Health Service (Scotland) Act 1978^(b) or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972^(c); or
 - (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (b) the applicant—
- (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

(a) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.

(b) 1978 c.29.

(c) S.I. 1972/1265 (N.I. 14).

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^(a) (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

^(a) 2001 c.11.

- (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.

Disabled child premium

13. The condition is that a child or young person for whom the applicant or a partner of his is responsible and who is a member of the applicant's household—

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10; 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—	
<i>Premium</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) £31.85.
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) £45.40.
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) £61.10;
(b) where the applicant satisfies the condition in paragraph 11(2)(b)—	
(i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5);	(b)(i) £61.10
(ii) in a case where there is no-one in receipt of such an allowance.	(b)(ii) £122.20
(3) Disabled Child Premium.	(3) £59.50 in respect of each child or young person in respect of whom the condition specified in paragraph 13 is satisfied.
(4) Carer Premium.	(4) £34.20 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	(5)
	(a) £24.08 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;
	(b) £15.55 in respect of each person who is neither—
	(i) a child or young person; nor
	(ii) member of a couple or a polygamous marriage,
	in respect of whom the conditions specified in paragraph 12 are satisfied;
	(c) £22.35 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 alternative 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) applies; 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) <i>Second adult</i>	(2) <i>Alternative maximum council tax reduction</i>
(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	(b)

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—

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| <p>(i) is less than £185.00 per week;</p> <p>(ii) is not less than £185.00 per week but less than £241 per week;</p> <p>(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 income-based jobseeker's allowance.</p> | <p>(i) 15 per cent of the council tax due in respect of that day;</p> <p>(ii) 7.5 per cent of the council tax due in respect of that day;</p> <p>(c) 100 per cent of the council tax due in respect of that day.</p> |
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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 Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005.
- (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, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been

incapable, or has been treated as incapable, of work for a continuous period of not less than—

- (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the 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 thereunder.

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^(a), 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.

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

^(a) S.I. 2011/517.

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 thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 18, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

(2) For the purposes of sub-paragraph (1), the amount is to be equal to—

- (a) the weekly amount of the payments; or
- (b) 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.

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).

(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^(a) or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by the Scottish Fire and Rescue Service established under Section 1A of the Fire (Scotland) Act 2005.
- (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;

(a) 2004 c.21.

- (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 thereunder.

14. Where an applicant is on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, his earnings.

15. Any earnings derived from employment which are payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of those earnings.

16. Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting that payment into Sterling.

17. Any earnings of a child or young person.

18.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 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(a) 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,

(a) S.I. 1999/2734.

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(a) 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, all of any of the following (a) to (f), namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(a) 1990 c.35.

- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) subject to paragraph 40, £10 of the pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

21. Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the 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.

(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 thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, 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(a) (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);

(a) 2008 c.28.

- (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

31. Any payment made to the applicant with whom a person is accommodated by virtue of arrangements made—

- (a) by a local authority under—
 - (i) section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after),
 - (ii) section 26 of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority), or
 - (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances); or
- (b) by a voluntary organisation under section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations).

32. Any payment made to the applicant or his partner for a person (“the person concerned”), who is not normally a member of the applicant’s household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 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^(a) 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,

(a) 1974 c.39.

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);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

47. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).

48. Any payment made by either the Secretary of State for Justice or by the Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody.

49.—(1) Where an applicant's applicable amount includes an amount by way of family premium, £15 of any payment of maintenance, other than child maintenance, whether under a court order or not, which is made or due to be made by the applicant's former partner, or the applicant's partner's former partner.

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments 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).

50.—(1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.

(2) In 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^(a);
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

“liable relative” means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.

51. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944^(b) to assist disabled persons to obtain or retain employment despite their disability.

(a) 1991 c.48.

(b) 1944 c.10.

52. Any guardian's allowance.

53.—(1) If the applicant is in receipt of any benefit under Part 2, 3 or 5 of the SSCBA, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

(2) If the applicant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the applicant's family.

54. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.

55. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows, widowers or surviving civil partners), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.

56.—(1) Any payment which is—

- (a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—
 - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
 - (ii) whose service in such capacity terminated before 31st March 1973; and
- (b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 14th January 1922 (exceptional grants of pay, non-effective pay and allowances).

57. Any council tax benefit to which the applicant is entitled.

58. 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.

59. Any payment made under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care) or under regulations made under section 57 of the Health and Social Care Act 2001 (direct payments).

60.—(1) Subject to sub-paragraph (2), in respect of a person who is receiving, or who has received, assistance under the self-employment route, any payment to that person—

- (a) to meet expenses wholly and necessarily incurred whilst carrying on the commercial activity;
- (b) which is used or intended to be used to maintain repayments on a loan taken out by that person for the purpose of establishing or carrying on the commercial activity,

in respect of which such assistance is or was received.

(2) Sub-paragraph (1) applies only in respect of payments which are paid to that person from the special account.

61.—(1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or where the applicant is a member of a family,

any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

62. Where the amount of subsistence allowance paid to a person in a reduction week exceeds the amount of income-based jobseeker’s allowance that person would have received in that reduction week had it been payable to him, less 50p, that excess amount.

63. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise.

64. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(a).

65.—(1) Any payment made by a local authority or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes, in England, a county council.

66. Any payment of child benefit.

SCHEDULE 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;

(a) S.I. 2001/1167.

- (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^(a) under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.
- (f) By way of occasional assistance including arrears and payments in lieu of occasional assistance (and in this paragraph ‘occasional assistance’ has the same meaning as in paragraph 16 of Schedule 1).

(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;

^(a) 2000 c.22.

- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (n) working tax credit;
- (o) income-related employment and support allowance or social fund payments under Part 8 of the SSCBA..

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,
- (f) paragraph 18 of the Schedule 10 to the Universal Credit Regulations 2013.

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(a); 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.

(a) S.I. 2001/1002.

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^(a) (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002^(b) (direct payments)
- (f) A payment made under the Age Related Payments Regulations 2013.

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.

^(a) S.I. 1972/12656 (N.I. 14).

^(b) 2002 c.6.

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, in particular, in Scotland, any croft land on which the dwelling is situated.

31. Any premises where the applicant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

32. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which

he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

33. Any premises which the applicant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the applicant first takes steps to effect those repairs or alterations, or such longer period as is necessary to enable those repairs or alterations to be carried out.

34. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.

35. The value of the right to receive an occupational or personal pension.

36. The value of any funds held under a personal pension scheme.

37. The value of the right to receive any rent except where the applicant has a reversionary interest in the property in respect of which rent is due.

38. Any payment in kind made by a charity or under or by the Trusts, the Fund, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

39. Any payment made pursuant to section 2 of the 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(a) or section 66 of the Housing (Scotland) Act 1988(b) (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);

(a) 1988 c.50.

(b) 1988 c.43.

- (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^(a) 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^(b) to homeworkers assisted under the Blind Homeworkers' Scheme.

49.—(1) Subject to sub-paragraph (2), where an applicant falls within class F (alternative maximum council reduction: persons who are not pensioners), the whole of his capital.

(2) Sub-paragraph (1) does not apply where an applicant falls within class E and class F.

50.—(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

51. Any sum of capital administered on behalf of a person in accordance with an order made under section 13 of the Children (Scotland) Act 1995, or under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules, where such sum derives from—

- (a) award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.

52. Any payment to the applicant as holder of the Victoria Cross or George Cross.

53. In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of

(a) 1944 c.10.

(b) 1958 c.3.

establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

54.—(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are food, ordinary clothing or footwear, household fuel or rent of the applicant or, where the applicant is a member of a family, any other member of his family, or any council tax or water charges for which that applicant or member is liable.

(3) For the purposes of sub-paragraph (2) “food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award was made.

55.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and 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).

56. In the case of an applicant participating in an employment zone programme, any discretionary payment made by an employment zone contractor to the applicant, being a fee, grant, loan or otherwise, but only for the period of 52 weeks from the date of receipt of the payment.

57. Any arrears of subsistence allowance paid as a lump sum but only for the period of 52 weeks from the date of receipt of the payment.

58. Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or 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.

59.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is—

- (a) a diagnosed person;
- (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph 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.

60. The amount of any payment, other than a war pension, to compensate for the fact that the applicant, the applicant's partner, the applicant's deceased spouse or deceased civil partner or the applicant's partner's deceased spouse or deceased civil partner—

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.

61.—(1) Any payment made by a local authority, or by the Welsh Ministers, to or on behalf of the applicant or his partner relating to a service which is provided to develop or sustain the capacity of the applicant or his partner to live independently in his accommodation.

(2) For the purposes of sub-paragraph (1) “local authority” includes in England a county council.

62. Any payment made under regulations made under section 57 of the Health and Social Care Act 2001 or under section 12B of the Social Work (Scotland) Act 1968, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

63. Any payment made to the applicant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.

64. Any payment made to the applicant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 13A of the Local Government Finance Act 1992 (c.14) (“the 1992 Act”), substituted by section 10 of the Local Government Finance Act 2012 (c.17) (“the 2012 Act”), 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 of person, whom the authority considers are in financial need. Paragraph 4 of Schedule 1A to the 1992 Act, inserted by Schedule 4 to the 2012 Act, requires the Secretary of State to prescribe by regulations a “default scheme”. The default scheme is to take effect, in respect of dwellings situated in the area of a billing authority, if the authority fails to make its own scheme on or before 31st January 2013.

The default scheme prescribed by the Secretary of State is set out in the Schedule to these Regulations. Parts 1 and 2 contain introductory provisions and definitions of key words and

phrases. Part 3 and Schedule 1 contains the procedure for reduction applications and appeals. Parts 4 and 5 specify the classes of person entitled and not entitled to a reduction under the scheme, respectively.

0 Parts 6 to 9 and Schedules 2 to 4 set out matters relevant to determining eligibility for a reduction and the amount of reduction under the scheme.

Part 10 and Schedules 5 to 10 set out how income and capital of the applicant and others is treated in calculating eligibility for a reduction, including in cases where an applicant or partner has an award of universal credit. Part 11 provides for the application of the scheme to students. Part 12 provides for extended reductions in certain circumstances and Part 13 sets out when entitlement begins and how a change in circumstances affects any reduction.

Part 14 of the scheme provides for the making of an application for a reduction. Part 15 sets out the time within which an authority must make its decision on the application and provides for notification of the decision. Part 16 makes provisions about the payment of a reduction in certain circumstances.

An impact assessment of the effect that section 13A of the 1992 Act will have on the public sector is available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8465/2158675.pdf. It is also published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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Reference –

Statutory Instrument 2013 No. 3181 – The Council Tax Reduction Scheme
(Prescribed Requirements) (England) (Amendment) Regulations 2013

END OF DOCUMENT

London Borough of Enfield

Council Tax Support Scheme

Equalities Impact Assessment.

Appendix B to Council Report – 29th January 2014

Predictive: assessing and analysing proposed changes to services, policies and budgets

Enfield Council

Predictive Equality Impact Assessment (EQIA) - Equality Analysis

**COUNCIL TAX SUPPORT
SCHEME FOR 2014/15
NOVEMBER 2013**

**Predictive equality impact assessment/equality analysis
template**

Proposed change to service/policy/budget	Council Tax Support Scheme for 2014/15
Officer completing the assessment	Geoff Waterton
Extension Number	6189
Service	Revenues and Benefits
Department	Finance , Resources and Customer Services (FRCS)
Date impact assessment completed	21/11/13

Section 1 – About the service, policy or budget, and proposed change

Q1. Please provide a brief description of the service/ policy/budget

The Council is obliged to set a local Council Tax Reduction Scheme every year following the abolition of the national Council Tax Benefit system in 2013. In January 2013, Council agreed a new scheme following government guidance, consultation and an Equalities Impact Assessment. The Council needs to agree whether to amend or retain this scheme for 2014/15.

Q2. Please provide a brief description of the proposed change(s) to the service/ policy/budget

In light of the experiences of the first nine months of the scheme, it is proposed to make the following amendments:

- That working age recipients of Council Tax Support who also receive Carers Allowance, the support component of Employment Support Allowance or higher rate Disability Living Allowance (or Personal Independence Payments) are exempted from the 19.5% reduction applied to all other working age claimants.
- That working age foster carers registered with Enfield Council in receipt of Council Tax Support are also exempted from the 19.5% reduction applied to all other working age claimants
- The removal of the one month discount for empty and uninhabitable homes.

Q3. Does equalities monitoring of your service show that the beneficiaries in terms of the recipients of the service, policy or budget, and the proposed change, include people from the following groups?

R	Yes
D	Yes
G	Yes
A	Yes
F	Not relevant to assessment criteria or eligibility for the scheme.
S	Not relevant to assessment criteria or eligibility for the scheme.
T	Not relevant to assessment criteria or eligibility for the scheme.
M	Yes
P	Yes

Q4. If you answered 'no' to any of the groups listed in Q3, please state why?

Not relevant to assessment criteria or eligibility for the scheme.

Q5. How will the proposed change eliminate discrimination, promote equality of opportunity, or promote good relations between groups in the community?

The scheme has been designed to be fair to all whilst ensuring those facing the greatest risk are prioritised. The proposed changes reduce negative impacts for carers, disabled working age adults and foster carers who do not have the same opportunities as other working age households to gain employment and increase their income.

Section 2 – Consultation and communication

Q6. Please list any recent consultation activity with disadvantaged groups carried out in relation to this proposal	
R	Yes – consultation sent to equality representative groups, community groups, random sample of claimants and council tax payers, online and through face to face venues.
D	Yes – see above
G	Yes – see above
A	Yes – see above
F	Yes – see above
S	Yes – see above
T	Yes – see above
M	Yes – see above
P	Yes – see above
Q7. Please state how you have publicised the results of these consultation exercises, and what action you have taken in response	
R	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
D	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
G	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
A	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
F	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
S	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
T	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
M	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers
P	Consultation results will be published as an appendix to the decision report – amendments to the scheme proposed in response to comments about disabled people and carers

Section 3 – Assessment of impact

Q8. Please describe any other relevant research undertaken to determine any possible impact of the proposed change

The Council has reviewed the applications for the hardship scheme set up to support those experiencing exceptional financial hardship. The vast majority of the applicants are disabled or carers. In addition, the Council has listened to a number of representative groups and the consultation supports a change to exempt carers and disabled people from the 19.5% reduction in support.

Q9. Please list any other evidence you have that the proposed change may have an adverse impact on different disadvantaged groups in the community

R	None
D	None
G	None
A	None
F	None
S	None
T	None
M	None
P	None

Q10. Could the proposal discriminate, directly or indirectly, and if so, is it justifiable under legislation? Please refer to the guidance notes under the heading, 7. Useful Definitions

Not applicable

Q11. Could the proposal have an adverse impact on relations between different groups? If so, please describe

No.

Q12. How could this proposal affect access to your service by different groups in the community?

R	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
D	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
G	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
A	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
F	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
S	This proposal will not change access to the service – eligibility to Council Tax Support remains the same

T	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
M	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
P	This proposal will not change access to the service – eligibility to Council Tax Support remains the same
Q13. How could this proposal affect access to information about your service by different groups in the community?	
R	This proposal will not change the access to information about our service by different groups in the community.
D	This proposal will not change the access to information about our service by different groups in the community.
G	This proposal will not change the access to information about our service by different groups in the community.
A	This proposal will not change the access to information about our service by different groups in the community.
F	This proposal will not change the access to information about our service by different groups in the community.
S	This proposal will not change the access to information about our service by different groups in the community.
T	This proposal will not change the access to information about our service by different groups in the community.
M	This proposal will not change the access to information about our service by different groups in the community.
P	This proposal will not change the access to information about our service by different groups in the community.

Section 4 – Tackling socio-economic inequality

Q14. Will the proposal in any way specifically impact on communities disadvantaged through the following socio-economic factors? Please explain below. If it does not, please state how you intend to remedy this (if applicable to your service), and include it in the action plan

Communities living in deprived wards/areas

The impact of this change will vary across the borough. Recipients of Council Tax Support are more prevalent in the south and east of the borough where the most deprived wards are located. As a result, the addition of this exemption for carers and disabled adults of working age will improve the lives of the most vulnerable in these areas. The changes to the discount for empty and uninhabitable homes will impact on all wards but will affect landlords rather than tenants. By removing the discount, the Council aims to encourage more stable communities and a reduction in multiple turnover of lets. Again the majority of private landlords operate in deprived wards and this change is aimed at enhancing stable communities in these wards.

People not in employment, education or training

A key element of the Government's welfare reforms is to encourage working age households into employment. The exemption for carers and disabled adults recognises that these groups may have more difficulty in gaining employment and increasing their household income.

People with low academic qualifications

People with low academic qualifications may be more likely to earn a lower income and therefore be more likely to be in receipt of means tested benefits. As a result, they will be affected by the scheme's reduction in support for working age claimants.

People living in social housing

The proposed change improves outcomes for disabled adults and carers living in social housing.

Lone parents
Lone parents already receive premiums in the calculation of support entitlement, enabling them to earn more money and still receive support.
People on low incomes
The Council's scheme prioritises those on the lowest incomes for support and includes those working but on low incomes.
People in poor health
The proposed change improves outcomes for disabled adults and carers
Any other socio-economic factor

Section 5 – Impact on staff

Q15. How have you consulted, or otherwise engaged with, all relevant staff about this proposal (including any staff on sickness or maternity leave)?	
Not applicable	
Q.16 If your proposal involves a staff restructuring, how have you discussed this with relevant trade unions?	
Not applicable	
Q17. Does job matching of existing staff against the new proposed staff structure, following any assimilation process, indicate that any particular groups of staff are adversely affected more than others?	
R	Not applicable
D	Not applicable
G	Not applicable
A	Not applicable
F	Not applicable
S	Not applicable
T	Not applicable
M	Not applicable
P	Not applicable
Q.18 Are there any proposed changes to working hours, work locations or duties likely to have a negative impact on particular groups of staff?	
R	Not applicable
D	Not applicable

G	Not applicable
A	Not applicable
F	Not applicable
S	Not applicable
T	Not applicable
M	Not applicable
P	Not applicable

Section 6 - Miscellaneous

Q19. Is your proposal likely to have an impact on services provided by another Council department or service? If so, have you discussed the possible impact with them?

It may act as a disincentive for private landlords to have multiple or lengthy voids, enabling an increased housing market for homeless households. However, it will add cost to the Council's Housing Revenue Account. The changes to allow carers, disabled adults and foster carers an exemption from the 19.5% reduction will improve outcomes for adult and children's social care.

Q20. Do you plan to publicise the results of this assessment? Please describe how you plan to do this

The assessment/analysis will be published on the Council's website, as well as alongside the decision report

Q21. How and when will you monitor and review the effects of this proposal?

January 2015

14. Action plan template for proposed changes to service, policy or budget

Proposed change to, or new, service, policy or budget.....Council Tax Support Scheme 2014/15.....

Team:...Revenues and Benefits.....

Department:.....FRCS.....

Service manager:.....Geoff Waterton....

Issue	Action required	Lead officer	Timescale	Costs	Comments
Communicate change to scheme to key groups	Amend communications plan and publicity materials	Geoff Waterton	March 2014	Within existing resources	

Please insert additional rows if needed

APPROVAL BY THE RELEVANT ASSISTANT DIRECTOR - NAME...Kate Robertson.....SIGNATURE.....

London Borough of Enfield

Council Tax Support and council tax discount consultation for 2014-15.

Appendix C to Council Report – 29th January 2014

<i>Author</i>	Krobertson	<i>Classification</i>	PROTECT	<i>Date of First Issue</i>	1/11/13
<i>Owner</i>	frcs	<i>Issue Status</i>	DRAFT	<i>Date of Latest Re-Issue</i>	
<i>Version</i>	1.0	<i>Page</i>	1 of 11	<i>File name</i>	Cts 2014

38 responses were received and a summary is provided below.

Section A

Not all respondents completed every question therefore the percentages show the proportion of those answering the question.

1. Do you believe that all working age households should have to pay something towards their council tax each year? On average this has meant households that previously qualified for full support having to contribute £3 a week towards their Council Tax this year.

59.5%	Yes
37.8%	No
2.7%	Don't know

2. Pensioners and war widows are the only groups that are still eligible for a maximum of 100% council tax support. Are there other groups that should also be awarded the full amount? In order to balance the Council's accounts, any increase in award for one group may result in a reduction in financial support for other claimants.

37.5%	No, keep the protected groups as they are
62.5%	Yes, change the protected groups

If 'yes', what groups would you give 100% Council Tax Support to?

Sick and disabled and those who have lost their job through no fault of their own
Carer of someone with dementia
One parent families where the father isn't contributing
Disabled people. People with mental health problems
People with learning difficulties, carers, registered disabled
Those on sickness, disability and carer benefits
Severe and profound learning difficulties, carers
ESA claimants living alone
Carers (more than 35 hours a week)
Disabled persons and carers
Disabled and carers
Injured service men and women
Disabled people – wrong to give pensioners 100%
High rate disability benefits
Single parents and low income families, special cases of unemployed
Mental health and disabled
One parents families – council tax should be scrapped altogether
Carers
Carers
People in receipt of PIP.
Carers. By caring for family members they save the local economy millions of pounds a year which would otherwise have to be covered by the Local Authority.
Also Carers Allowance is the lowest of all benefits.

3.a The Council has not changed the eligibility criteria for Council Tax Support and kept the previous national benefit eligibility criteria. Some councils have introduced a residency criteria so that a new claimant has to have lived in the borough for x months/years before they can claim Local Council Tax Support. This would mean that those who have lived in the borough for a longer period of time are prioritised for financial support. People who move in to the borough after 1 April 2014 would not get support until they met the residency period. It could make it difficult to collect a full year's Council Tax from benefit claimants who do not qualify for financial support which may lead to an increase in bad debts. Should Enfield keep with the national eligibility criteria?

66.7%	<i>Yes, Enfield should keep the national eligibility criteria</i>
22.2%	<i>No, Enfield should introduce a residency criteria for new claimants that move into the borough after 1 April 2014</i>
11.1%	<i>Don't know</i>

3.b Please comment below on what you think the impact of introducing a residency criteria would be.

People would not be able to afford their council tax, increase in bad debt, is it a form of social cleansing?

Increased financial pressure for low income families. Question the cost effectiveness of the admin that would be needed to implement such a scheme

Would be very 'heavy duty' and cost a lot of money to administer

Rewarding long term residence would be good practice and make residents feel appreciated – more likely to get involved and contribute to social and economic aspect

It will help those who have lived here for longer feel like they are prioritised and not neglected over new residents

Further hardship on those on lowest incomes, don't understand how this could be fair as we have human right of freedom of movement. People move for a variety of reasons so why discriminate?

Discourages those moving into the borough who have no intention of working or contributing to society

May influence other boroughs exporting their homeless/difficult families into Enfield.

If fleeing domestic violence though, should get it

Enfield is suffering because too many people are moving into Enfield from other boroughs and countries and asking for benefit support. This isn't right or fair. Enfield Council should firstly deal with residents who can show they have lived here a while and then, and only then, help newcomers to the borough.

The impact would be: increased debts for the council, increased debts for residents as well as stress and poverty, unnecessary court cases which are very costly and stressful

Only if it was applied to new immigrants – not people who have lived in the country for many years but move into Enfield

Somehow the foreign nationals would still end up getting priority

People who have been longer term residents should be given priority for benefit, may deter people from moving into the borough just because we have cheaper properties – they have no loyalty to the borough

The council will accrue bad debts which will ultimately have a negative impact on its ability to fund other services or areas which benefit residents.

A residency requirement could cause hardship to claimants who have recently moved to the borough. This would discriminate against people and could force them into debt.

4. In order to qualify for Council Tax Support, people must have less than £16,000 in savings. Should we reduce this level?

64.9% *No, keep it the same*

29.7% *Yes, reduce it*

5.4% *Don't know*

- 5.** Last year the Government offered a one year grant to local authorities which met some but not all of the funding shortfall. In return councils could only reduce working age claimants by 8.5%. Enfield chose not to accept this grant because the scheme would not be fully funded and savings would have to be found from service budgets to fund the shortfall. The Government has indicated it is unlikely to offer a grant this year. However, if the Government were to offer this grant again, should the Council accept it even though it may require additional savings (likely to be over £400,000) to be found to fund the shortfall?

58.3%	<i>No - keep the scheme so that the full shortfall is passed on to working age claimants</i>
25.0%	<i>Yes - take the grant and find more savings to meet the shortfall</i>
16.7%	<i>Don't know</i>

- 6.** Please comment if you feel the Council's proposed Council Tax Support Scheme will affect particular groups of people more than others, and if so, how we may address the impact. **USE THE SPACE BELOW**

I believe the relevant categories have been covered, however people on low income will feel the heat more than any group. It will be appropriate to provide them with some kind of assistance like discounts etc.

Likely impact on those who are vulnerable i.e. people with learning disabilities, registered disabled persons, mental health, Carers who according to Carers Strategy save LBE some £18,000 PA each by caring for their loved ones, those on welfare benefits, those in supported housing i.e. people with learning disabilities.

I think those on sickness and disability benefits will suffer greatly from this and also carers. costs of living are increasing and more people are turning to food banks just to eat basics weekly. Forcing those who are sick and disabled to now pay council tax of any amount is very unfair

Disabled and their Carers.

Support should be given to disabled people and carers

The Council's Council Tax Support scheme, might work, but only if the right things are done, by the people of Britain. Those who deserve this support, should be one's to get it.

People caring for a relative, partner or close friend with a disability, long term or terminal illness, substance misuse issue or mental illness, who are caring for more than 35 hours a week will be adversely affected by the scheme. These people are already hard pressed in their living circumstances often find it hard to juggle work and their caring responsibilities.

Often these carers are already subsidising their loved ones health and wellbeing (especially in the case of mental health carers where the mental health service user refuses to acknowledge their severe and enduring illness because of paranoia or psychosis). People who suffer bi-polar depression or schizophrenia often mismanage their finances to an extraordinary degree and the carer has to subsidise their income to ensure they have basic living needs such as food and utilities. These carers should be entitled to discount on their council tax benefit to help their already stretched finances meet their needs.

Our experience at Enfield Disability Action is that service users on high rate components of mobility and care such as Disability Living Allowance, Personal Independence Payment, Employment Support Allowance Support Group and Incapacity Benefit are finding it hard to pay their Council Tax contributions. Those who fall into arrears are sometimes taken to court unnecessarily, which causes considerable distress.

The C.T Support Scheme should be allocated to all, people who feel that they needed help. It should be like feel free if want need help if not, don't have to be before to appeal it.

Disabled.

It appears that anyone in receipt of benefits will be affected by the scheme.

Carers - already facing great anxiety over benefits changes to the person they care for - in particular PIP may affect their ability to claim Carers Allowance and research shows many carers suffer from financial hardship in order to continue caring.

Exemptions and Discounts

7. The Council is only allowed to change exemptions and discounts relating to empty and second homes. Our current scheme gives a one month discount for empty homes and no discount for second homes. Are there any changes you would want to see to the discounts for empty or second homes?

26.5% Yes

64.7% No

8.8% Don't know

If 'yes', what changes would you make?

At least one months discount or a 60% discount for 2 months
Discount should apply to empty homes
No discount for empty or second homes, charge more for empty homes longer than 12 weeks
A longer relief period for empty homes – 6 months – so if you're selling after buying a new home there is a sufficient time period where you are not paying
Don't award for any empty homes – because majority are occupied, if not, force the owners to do something about it. All we're doing is protecting rich landlords
Give longer for properties actively being sold as one month is unrealistic for this scenario
Give a discount for empty and second homes
In certain cases, one month should be extended – e.g. if empty due to bereavement, illness or long term care. Each case judged on its merits
Probate takes 6-12 months, unable to sell in that time so unfair
Empty homes due to owner having to go into residential care should be exempt.

- 8.** The Council has introduced an empty homes premium where the owner of a property left empty for more than two years has to pay 150% of council tax. Should the Council amend this premium to exclude those actively seeking to sell the property?

48.6%	Yes
34.3%	No
17.1%	Don't know

- 9.** If the Council were to ask the Government for powers to change other discounts (see list in the accompanying document), which ones would you change, if any.
PLEASE USE THE SPACE BELOW

Person in detention
Granny flat annexes
Carers, disabled people, everyone on welfare benefits – 100% discount
Second empty bedrooms in supported, sheltered accommodation should be exempt
Carers should receive a discount
Change long term care reduction, student and student nurse reduction, severely mentally unpaired discount
Fixed discount for carers

- 10.** Please provide any additional comments you would like to make including any alternative options you would like us to consider. **USE THE SPACE BELOW**

It's a hard one. I can only speak for myself, i am currently on e.s.a and have recently been diagnosed with the most serious form of chronic fatigue syndrome. I was working when i became ill and had paid into the system. All I can say is that with rent increases, the housing benefit cap and now having to pay council tax life has become a real struggle. I understand that we are all expected to pay something but i question why wealthy pensioners are exempt. Personally i would like to go back to the old system. paying an extra £20 a month seems such a small amount yet this winter i will be in a situation where i will have to decide to turn my heating off for a week or cut back on food in order to pay that amount.

In a time of change to the Welfare Benefits System ie. PIP, ESA and Universal Credit it is likely that those most vulnerable (ie. people with learning disabilities, registered disabilities, OAP etc.) in our society will lose out especially when they have no access to advocacy services. This therefore further impacts on people then having to pay Council Tax. Likely impact: debt, homelessness, malnutrition, mental health etc.

Carers need to be counted as exempt adults as previously. You have not included Carers in the list of what you do. Given the councils commitment to Carers, please amend and recognise Carers as a group.

Offer to buy homes from residents which require repairs and that the owners (suggest elderly) cannot afford with the understanding that they continue to live there, an equatable amount go to them and that the property transfers to the LBE upon death.

Carers should receive a discount in the council tax, particularly if it is just them and the person they are living with in the property

Carers of working age who are registered with Enfield Carers Centre and who could provide proof of their caring responsibilities, especially those in receipt of a Carers Direct Payment (and so are already proving they are in the greatest financial need) could be given a discount under the council tax scheme automatically. Other carers, not in receipt of the carers direct payment, but who can give evidence of their demanding caring responsibilities should also be considered for the discount.

11. Are you responding on behalf of an organisation?

15.8% Yes

84.2% No

Section B - About you

12. Do you pay Council Tax to Enfield Council?

26 (81.3%) Yes

5 (15.6%) No

13. Are you currently receiving Local Council Tax Support in Enfield?

6 (18.8%) Yes

24 (75.0%) No

14. How old are you?

0 (0.0%) Under 18 years of age

5 (15.6%) 55 - 60

0 (0.0%) 18 - 24

2 (6.3%) 61- 64

5 (15.6%) 25 - 34

5 (15.6%) Over 65 years of age

5 (15.6%) 35 - 44

3 (9.4%) Prefer not to say

6 (18.8%) 45 - 54

15. Are you male, female or transgender?

9 (28.1%) Male

18 (56.3%) Female

0 (0.0%) Transgender

3 (9.4%) Prefer not to say

16. How would you describe your sexuality?

21 (65.6%) Heterosexual

0 (0.0%) Gay woman/lesbian

0 (0.0%) Gay man

0 (0.0%) Bisexual

8 (25.0%) Prefer not to say

0 (0.0%) Other

*If 'other', please specify**Literal responses***17.** Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

5 (15.6%) Yes, limited a lot

4 (12.5%) Yes, limited a little

16 (50.0%) No

5 (15.6%) Prefer not to say

18. How would you describe your ethnic origin?

19 (59.4%)	<i>English / Welsh / Scottish / Northern Irish / British</i>	0 (0.0%)	<i>Polish</i>	0 (0.0%)	<i>Mixed European</i>	1 (3.1%)	<i>Ghanaian</i>
0 (0.0%)	<i>Irish</i>	0 (0.0%)	<i>Kurdish</i>	1 (3.1%)	<i>Multi-ethnic islander</i>	0 (0.0%)	<i>Somali</i>
0 (0.0%)	<i>Greek</i>	0 (0.0%)	<i>Gypsy / Irish Traveller</i>	2 (6.3%)	<i>Indian</i>	0 (0.0%)	<i>Nigerian</i>
0 (0.0%)	<i>Greek Cypriot</i>	0 (0.0%)	<i>Romany</i>	0 (0.0%)	<i>Pakistani</i>	0 (0.0%)	<i>Arab</i>
0 (0.0%)	<i>Turkish</i>	0 (0.0%)	<i>Other Eastern European</i>	0 (0.0%)	<i>Bangladeshi</i>	4 (12.5%)	<i>Prefer not to say</i>
0 (0.0%)	<i>Turkish Cypriot</i>	0 (0.0%)	<i>White and Black African</i>	1 (3.1%)	<i>Sri Lankan</i>	0 (0.0%)	<i>Other</i>
0 (0.0%)	<i>Italian</i>	0 (0.0%)	<i>White and Black Caribbean</i>	0 (0.0%)	<i>Chinese</i>		
0 (0.0%)	<i>Russian</i>	0 (0.0%)	<i>White and Asian</i>	0 (0.0%)	<i>Caribbean</i>		

If 'other', please specify

Literal responses

19. What is your faith or religion?

7 (21.9%)	<i>No religion</i>
10 (31.3%)	<i>Christian (including Church of England, Catholic, Protestant and all other Christian denominations)</i>
0 (0.0%)	<i>Buddhist</i>
3 (9.4%)	<i>Hindu</i>
1 (3.1%)	<i>Jewish</i>
2 (6.3%)	<i>Muslim</i>
0 (0.0%)	<i>Sikh</i>
4 (12.5%)	<i>Prefer not to say</i>
3 (9.4%)	<i>Other</i>

If 'other', please specify

*Literal responses***20.** Which of these activities best describes what you are doing at present?

12 (37.5%)	<i>Employed full-time</i>	2 (6.3%)	<i>Unemployed and available for work</i>
3 (9.4%)	<i>Employed part-time</i>	0 (0.0%)	<i>On a government supported training programme (e.g. Modern Apprenticeship/ Training for Work)</i>
1 (3.1%)	<i>Self-employed (full or part time)</i>	5 (15.6%)	<i>Permanently sick/disabled</i>
3 (9.4%)	<i>Fully retired</i>	1 (3.1%)	<i>Looking after the home</i>
1 (3.1%)	<i>Partially retired</i>	2 (6.3%)	<i>Doing something else (to those listed)</i>
0 (0.0%)	<i>Student</i>		

21. Do you have parenting responsibilities?

11 (34.4%) Yes

19 (59.4%) No

22. How would you describe your relationship status?

6 (18.8%)	<i>Living alone</i>
12 (37.5%)	<i>Married</i>
2 (6.3%)	<i>Living as a couple</i>
0 (0.0%)	<i>Civil Partnership</i>
8 (25.0%)	<i>Prefer not to say</i>
4 (12.5%)	<i>Other</i>

If 'other', please specify

0 (0.0%)

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London Borough of Enfield

Council Taxbase 2014/15.

Appendix D to Council Report – 29th January 2014

Introduction

The council tax base is calculated in accordance with The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012. The tax base is expressed in terms of “Band D Equivalents” (i.e. a property in Band A is equivalent to 2/3rds of a Band D property and a property in Band H is 2 Band D Equivalents). A table showing the calculation of the tax base is given below. The figures are based upon information in existing Council Tax records with adjustments to take into account the effect of estimated changes between now and March 2015

The collection percentage used in the calculation of the tax base in previous years is as follows: -

Years	Collection Percentage
1993/95	95%
1995/97	95.5%
1997/01	97%
2001/02	97.5%
2002/04	97.75%
2004/05 to 2012/13	98%
2013/14	96.87%

On present estimates it is recommended that the overall collection percentage for 2014/15 is 96.87%. The estimated collection percentage is based upon experience to date and an estimate for collection of council tax from taxpayers affected by the reduction in benefit support.

Any under or over achievement of the collection rate including prior years' arrears will be reflected in the overall position on the Council's Collection Fund and potentially has an impact on the revenue budget in future years. These calculations and assumptions result in a Band D Equivalent Tax Base for 2014/15 of 88,698 properties.

The Council must decide the tax base by the 31st January 2014 prior to setting the council tax for 2014/15.

Recommendation

Pursuant to this report and in accordance with the Local Authorities (Calculation of the Tax Base) (England) Regulations 2012, the amount calculated by the London Borough of Enfield as its Council Tax Base for 2014/15 shall be 88,698 Band D equivalents.

CALCULATION OF COUNCIL TAX BASE FOR 2014/15

	BAND A COLUMN 1	BAND B COLUMN 2	BAND C COLUMN 3	BAND D COLUMN 4	BAND E COLUMN 5	BAND F COLUMN 6	BAND G COLUMN 7	BAND H COLUMN 8	TOTAL COLUMN 9
1. Total number of dwellings on valuation list on 9th September 2013	5,113	11,412	33,305	36,022	20,786	9,005	5,809	877	122,329
2. Number of exempt and demolished dwellings (e.g. unoccupied less than 6 months, uninhabitable, vacant due to hospitalisation, residence in care home or death, occupied by students, occupied by mentally impaired residents)	292	368	559	486	260	89	68	8	2,130
3. Number of chargeable dwellings [lines 1-2]	4,821	11,044	32,746	35,536	20,526	8,916	5,741	869	120,199
4. Number of chargeable dwellings in line 3 subject to disabled reduction	1	5	88	175	198	90	77	31	665

	BAND A (Entitled to disabled relief reduction) COLUMN 1	BAND A COLUMN 2	BAND B COLUMN 3	BAND C COLUMN 4	BAND D COLUMN 5	BAND E COLUMN 6	BAND F COLUMN 7	BAND G COLUMN 8	BAND H COLUMN 9	TOTAL COLUMN 10
5.Number of dwellings effectively subject to Council Tax for this band by virtue of disabled relief [line 4] after reduction	1	5	88	175	198	90	77	31		665
6.Number of chargeable dwellings adjusted in accordance with lines 4 and 5 [lines 4-5+6]	1	4,825	11,127	32,833	35,559	20,418	8,903	5,695	838	120,199
7.Number of dwellings in line 6 entitled to a 25% discount (only one chargeable resident over the age of 18)	1	3,098	7,035	14,883	11,613	5,168	1,854	763	91	44,506
8.Number of dwellings in line 6 entitled to a 50% discount (all residents being disregarded for council tax purposes)	0	5	6	25	52	32	34	50	18	269
9.Number of dwellings in line 6 classed as empty and being charged the Empty Homes Premium on 7 October 2013.		47	14	66	47	39	14	8	4	239
10.Number of other dwellings in line 6 (assumed to be entitled to no discounts) [6-7-8-9-10]	0	1,675	4,072	17,859	23,847	15,179	7,001	4,874	725	75,232

	BAND A (Entitled to disabled relief reduction) COLUMN 1	BAND A COLUMN 2	BAND B COLUMN 3	BAND C COLUMN 4	BAND D COLUMN 5	BAND E COLUMN 6	BAND F COLUMN 7	BAND G COLUMN 8	BAND H COLUMN 9	TOTAL COLUMN 10
11.Total equivalent number of dwellings after discounts, exemptions and disabled (to 2 decimal places) [(line 7 x 0.75) + (line 8 x 0.5) + (line 9 x 1.5) + (line 10)]	0.75	4,071.50	9,372.25	29,132.75	32,653.25	19,129.50	8,429.50	5,483.25	808.25	109,081.00
12.Ratio to Band D	5/9	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9	
13. Number of Band D equivalents (to 1 decimal place) [line 10 x line 11]	0.4	2,603.3	7,167.4	25,642.3	32,274.3	23,236.3	12,069.8	9,147.6	1,593.2	113,734.6
14. Less Council Tax Support band D cost	0.00	1,941.10	3,806.06	8,242.66	6,709.34	2,493.74	525.35	149.52	5.73	23,873.49
15. Net taxbase after cts [lines 13-14]	0.75	2,130.40	5,566.19	20,890.09	25,943.91	16,635.76	7,904.15	5,333.73	802.52	85,207.51
16. Ratio to Band D	5/9	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9	
17. Taxbase number of Band D equivalents (to 1 decimal place) [line 15 x line 16]	0.4	1,420.3	4,329.3	18,569.0	25,943.9	20,332.6	11,417.1	8,889.6	1,605.0	92,507.20

	BAND A (Entitled to disabled relief reduction) COLUMN 1	BAND A COLUMN 2	BAND B COLUMN 3	BAND C COLUMN 4	BAND D COLUMN 5	BAND E COLUMN 6	BAND F COLUMN 7	BAND G COLUMN 8	BAND H COLUMN 9	TOTAL COLUMN 10
18. General provision for 2% non-collection		28	87	371	519	407	228	178	32	1,850
19. Provision for 47% non-collection on tax increase due to council tax support					1,959					1,959
20. Taxbase number of Band D equivalents (assuming 96.87% collection)	0	1,392	4,243	18,198	23,466	19,926	11,189	8,712	1,573	88,698

TOTAL TAX BASE 88,698

London Borough of Enfield

NNDR1 Buisness Rates Base Return 2014/15.

Appendix E to Council Report – 29th January 2014

Members are asked to note that this Appendix has been marked as “To Follow” pending completion of the DCLG return, received on 17 January 14.

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London Borough of Enfield

Council Tax Technical Changes.

Appendix F to Council Report – 29th January 2014

Council Tax Technical Changes

Summary

The Local Government Finance Act 2012 introduced discretion for billing authorities to vary some existing council tax discounts and exemptions from the 1st April 2013. The secondary legislation, The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 detailing the changes was passed on the 26th November 2012. The areas affected were:-

Second Homes

Billing authorities are able to change the level of council tax discount for second homes

Empty dwellings under-going major repair

From 1st April 2013 billing authorities can vary the level of reduction and the time period which may apply.

Empty and unfurnished dwellings

Billing authorities can vary the level and shorten the period of the exemption.

Empty Homes Premium

The Act introduces a new discretionary power to levy an empty homes premium of up to 50% on a dwelling that is unoccupied and substantially unfurnished for a continuous period of at least two years.

The Government has exempted:-

- A dwelling which is the sole or main residence of a member of the armed forces who is absent due to service
- An annex treated as part of the main dwelling

The technical changes also introduced the legal right for council taxpayers to pay by 12 monthly instalments. The default scheme remains 10 instalments. Billing authorities are also no longer obliged to provide statutory billing information with demand notices in hard copy if the information is published on line.

Technical Changes Impact

The Government introduced the technical reforms of council tax as part of the Local Government Resource Review which also included the replacement of council tax benefit and has indicated that the income generated from the technical reforms can be used to mitigate the loss of grant associated with the replacement of council tax benefit. The Council included its intention to use the extra income to increase the exemptions within this year's statutory consultation for the local council tax support

scheme. The second driver for change was to give authorities stronger levers to ensure housing stock is effectively utilized. The proposed changes will discourage 2nd home ownership and encourage owners to bring empty dwellings into use quickly.

The increase in tax will fall on council taxpayers owning 2nd homes and empty dwellings. Given the chronic shortage of available housing in the borough and the need to reduce the impact of the local council tax support scheme on carers and the disabled the overall impact of the changes are positive as they will benefit disabled and carers receiving council tax benefit and assist those disadvantaged by the fact that demand for housing is greater than supply and the cost of housing homeless families in temporary accommodation is currently borne by the council tax payer at large.

Recommendation

In accordance with The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 members are recommended to:-

- Reduce the council tax discount for vacant dwellings undergoing major repair from 10% for up to one month to nil with effect from 1st April 2014
- Reduce the council tax discount for empty and unfurnished dwellings from 10% for up to one month to nil with effect from the 1st April 2014.

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MUNICIPAL YEAR 2013/2014 REPORT NO. **177**

MEETING TITLE AND DATE:

Council
29 January 2014

REPORT OF:

Chief Executive/Director of
Finance, Resources and
Customer Services on behalf of
the Electoral Review Panel

Agenda – Part: 1**Item: 10****Subject:**

Review of Parliamentary Polling Districts and
Polling Places

Wards: All Wards**Cabinet Member consulted:**

Not applicable

Contact officer and telephone number:

Peter Stanyon
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Telephone: 020 8379 8580

1. EXECUTIVE SUMMARY

- 1.1. To comply with the requirements of the Representation of the People Act 1983 (as amended by section 17 of the Electoral Registration and Administration Act 2013), the Council is required to undertake a full review of all polling districts and polling places in the period between 1 October 2013 and 31 January 2015.
- 1.2. The Electoral Review Panel commenced the review on 1 October 2013 and following consideration of all representations received, agreed its final recommendations at its meeting on 20 November 2013.
- 1.3. Council is asked to approve the Panel's final recommendations for adoption with effect from 17 February 2014.

2. RECOMMENDATION

- 2.1. That Council adopts the recommendations of the Electoral Review Panel as set out in paragraph 3.4 and sub-paragraphs 3.4.1 to 3.4.20.

3. BACKGROUND

- 3.1 In order to comply with the requirements of the Representation of the People Act 1983 (as amended by section 17 of the Electoral Registration and Administration Act 2013), the Council is required to undertake a full review of all polling districts and polling places in the period between 1 October 2013 and 31 January 2015. In doing so, the authority must seek to ensure that all electors have reasonable facilities for voting as are practicable in the circumstances and have regard to the needs of electors who are disabled.
- 3.2 At its meeting on 29 April 2013, the Electoral Review Panel agreed the process for undertaking the review. Notice of the review was published on 1 October 2013, and the Returning Officer requested to make representations on existing and proposed electoral arrangements, which he did on the same day.
- 3.3 The Returning Officer's report was (and continues to be) posted on the Council's website and was made available to the following stakeholders, who were all invited to comment by a deadline of 1 November 2013:
- All 63 Councillors
 - The three Enfield MPs
 - The Enfield and Haringey London Assembly Constituency Member
 - Election agents for the following local constituency parties:
 - ✦ British National Party
 - ✦ Christian Peoples Alliance
 - ✦ Conservative Party
 - ✦ English Democrats
 - ✦ Green Party
 - ✦ Labour Party
 - ✦ Liberal Democrats
 - ✦ UK Independence Party
 - The two political groups on the Council
 - The Council's Director of Education, Children's Services and Leisure
 - Enfield Association for the Blind
 - Enfield Disability Action
 - Enfield Vision
 - Royal National Institute for Deaf and Hard Hearing People (RNID)
 - Scope
- 3.4 At its meeting on 20 November 2013, the Panel considered representations made by the Returning Officer and other key stakeholders and resolved to recommend to Council that:
- 3.4.1 In accord with the decision taken by Council on 10 November 2010, each polling district and the polling districts bordering it be designated as the polling place for that polling district;
- 3.4.2 On an annual basis, the Returning Officer be required to submit a schedule of proposed buildings to be used as polling stations for approval by the Electoral Review Panel;
- 3.4.3 Any amendments deemed necessary by the Returning Officer to that schedule in the intervening period be notified to the Chairman of the

Panel and the Opposition Lead Member with the Returning Officer's reasons for the change;

- 3.4.4 No alterations be made to the designation of polling districts as agreed by Council at its meeting on 10 November 2010, other than that to the boundary between the XEC and XED polling districts of the Highlands Ward adopted by the Panel on 28 November 2012;
- 3.4.5 That the reason Council has approved the scheme is that after detailed evaluation by the Electoral Review Panel and key stakeholders, it considers that the needs of electors are best met by the submission as proposed;
- 3.4.6 The scheme of polling stations as set out below be approved:

Edmonton

To be sub-divided into 37 polling districts, coterminous with the Borough Ward boundaries, as follows:

3.4.7 **Bush Hill Park** (no changes)

- ZKA Bush Hill Park Bowls, Tennis and Social Club
ZKB Bush Hill Park Methodist Church Hall
ZKC Edmonton Lower School
ZKD Firs Farm School – **SHARED LOCATION** (also designated for the YRB polling district of the Palmers Green Ward (Enfield Southgate Constituency))
ZKE Bush Hill Park United Reformed Church Hall

3.4.8 **Edmonton Green** (no changes)

- ZSA Maldon Memorial Hall
ZSB Edmonton Green Library
ZSC Faith House (Edmonton United Reformed Church)
ZSD Brettenham School Nursery
ZSE Unity Hub @ Craig Park
ZSF Edmonton Eagles Amateur Boxing Club

3.4.9 **Haselbury** (no changes)

- ZOA Churchfield School
ZOB Latymer School (Temporary Building)
ZOC Hazelbury School
ZOD St Aldhelms Church Hall
ZOE Klinger Community Hall

3.4.10 **Jubilee** (no changes)

ZMA	Edmonton County Upper School (Temporary Building)
ZMB	1159 Air Training Corps Building
ZMC	William Preye Centre
ZMD	Tramway (Edmonton) Christian Fellowship
ZME	St Alphege Church
ZMF	Mottingham Hall

3.4.11 **Lower Edmonton** (no changes)

ZPA	St Edmunds Church Hall
ZPB	St Peters Church Hall (Edmonton)
ZPC	St Demetrios Church Hall
ZPD	The Cart Public House

3.4.12 **Ponders End** (no changes)

ZLA	Ponders End Methodist Church
ZLB	The Royal British Legion
ZLC	The Welcome Community Centre
ZLD	Ponders End Working Mens Club
ZLE	Ponders End Library

3.4.13 **Upper Edmonton** (no changes)

ZUA	Wilkinson Hall – SHARED LOCATION (also designated for the YTD polling district of the Bowes Ward (Enfield Southgate Constituency))
ZUB	Wilbury Primary School
ZUC	Temporary Building (Bridport Road Railway Bridge)
ZUD	Fore Street Library
ZUE	Angel Raynham Childrens Centre
ZUF	St Johns Church Hall

Enfield North Constituency

To be sub-divided into 38 polling districts, coterminous with the Borough Ward boundaries, as follows:

3.4.14 **Chase**

XAA	Botany Bay Cricket Club
XAB	Brigadier Free Church
XAC	St Johns Church Hall – CHANGED LOCATION (previously St Johns CE School)
XAD	St Lukes Youth Centre
XAE	Old Ignatian Hall, Loyola Ground – CHANGED LOCATION (previously Capel Manor Primary School)
XAF	Worcesters Primary School

3.4.15 **Enfield Highway** (no changes)

XHA	St Helier Hall
XHB	St Barnabas Hall
XHC	1 st Enfield Scout Hut
XHD	Brimsdown Sports and Social Club
XHE	27 th Enfield Scout Hut

3.4.16 **Enfield Lock** (no changes)

XCA	Temporary Building (Park Road Flats)
XCB	Totteridge Road Baptist Church Hall
XCC	Kettering Hall
XCD	St Peter and St Paul Church Hall
XCE	Prince of Wales School
XCF	Enfield Island Community Centre

3.4.17 **Highlands** (no changes)

XEA	Temporary Building (Our Lady of Walsingham Church)
XEB	Enfield Lawn Tennis Club
XEC	St Mary Magdalene Church Hall
XED	The Jolly Farmers Public House
XEE	Temporary Building (Lonsdale Drive)

3.4.18 **Southbury**

XGA	Carterhatch Infant School
XGB	Suffolks Primary School
XGC	Ellenborough Table Tennis Club – CHANGED LOCATION (previously George Spicer Primary School)
XGD	Fellowship Hut (Bush Hill Park Recreation Ground)
XGE	John Jackson Library
XGF	St Marks Hall

3.4.19 **Town** (no changes)

XFA	Annexe Rear of Beacon of Light Church
XFB	Chace Community School
XFC	St Andrews CE School
XFD	St Andrews Church Hall
XFE	4 th Enfield Scout Headquarters
XFF	St Michael and All Angels Parish Hall

3.4.20 **Turkey Street** (no changes)

XBA	Lea Valley High School
XBB	Kempe Hall
XBC	Freezywater St Georges Primary School
XBD	The Dharma Centre

Enfield Southgate

To be sub-divided into 35 polling districts, coterminous with the Borough Ward boundaries, as follows:

3.4.21 **Bowes** (no changes)

YTA	Bowes Primary School
YTB	Trinity at Bowes Methodist Church Hall
YTC	Tottenham Infants School
YTD	Wilkinson Hall – SHARED LOCATION (also designated for the ZUA polling district of the Upper Edmonton Ward (Edmonton Constituency))

3.4.22 **Cockfosters** (no changes)

YDA	St Pauls Church Hall
YDB	Southgate Compton Cricket Club
YDC	Freston Hall
YDD	14 th Southgate Scout Headquarters
YDE	St Thomas Church

3.4.23 **Grange** (no changes)

YJA	The Formont Centre
YJB	The Dugdale Centre
YJC	St Peters Church (Winchmore Hill)
YJD	Grange Park Methodist Church Hall
YJE	St Stephens Hall
YJF	Ridge Avenue Library

3.4.24 **Palmers Green** (no changes)

YRA	The Broomfield Club
YRB	Firs Farm School – SHARED LOCATION (also designated for the ZKD polling district of the Bush Hill Park Ward (Edmonton Constituency))
YRC	Mayfield Athletic Centre
YRD	Hazelwood Junior School
YRE	Palmers Green Library – SHARED LOCATION (also designated for the YQC polling district of the Southgate Green (Enfield Southgate Constituency))

3.4.25 **Southgate** (no changes)

YIA	Highlands Village Hall
YIB	Eversley School
YIC	Southgate District Scout Headquarters
YIE	Bourne Methodist Church Hall
YIF	St Andrews Parish Hall

3.4.26 Southgate Green (no changes)

- YQA St Monicas Scout and Guide Headquarters
- YQB Walker Primary School
- YQC Palmers Green Library – **SHARED LOCATION** (also designated for the YRE polling district of the Palmers Green Ward (Enfield Southgate Constituency))
- YQD Bowes Road Library
- YQE St Pauls Parish Hall (Southgate)

3.4.27 Winchmore Hill (no changes)

- YNA St Pauls CE Primary School
- YNB Friends Meeting House
- YNC Palmers Green United Reformed Church
- YND Winchmore Hill Methodist Church Hall
- YNE Holy Trinity Church Hall

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 As the Council must undertake a full statutory review of all polling districts and polling places in the period between 1 October 2013 and 31 January 2015 in accordance with the provisions of the Representation of the People Act 1983 and the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, no alternative options apply.

5. REASONS FOR RECOMMENDATIONS

- 5.1 To seek Council's approval to the Electoral Review panel's recommendations in order that they be adopted with effect from 17 February 2014.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

Additional costs will be incurred in the administration of elections if the Council decides to designate additional polling districts and associated polling places and/or temporary buildings. Conversely, costs savings will be accrued if polling districts are merged and/or fewer polling stations utilised.

6.2 Legal Implications

The Council is required by the Representation of the People Act 1983 (as amended by section 17 of the Electoral Registration and Administration Act 2013) to divide its area into polling districts for the purposes of parliamentary elections. The Council must ensure that all the electors in the constituency have reasonable facilities for voting and take account of the access needs of all electors. Failure to comply could lead to the Council being in breach of its official duty.

Section 18C of the 1983 Act states that the Council is to undertake a review of the polling districts and places within its area during each compulsory review period. The compulsory review period is defined by the 1983 Act as the period of 16 months beginning with 1 October 2013 after which the period will be every 16 months beginning with 1 October of every fifth year after that. This does not however prevent the Council carrying out a review at other times.

Schedule A1 of the Representation of the People Act 1983 outlines steps that the Council must take in carrying out a review. The Representation of the People Act 1983 (as amended) and the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006 require the Council to obtain and publish the representations of the Returning Officer and seek representations from representatives of disabled groups.

Under the Equality Act 2010, service providers are legally obliged to make any adjustment that it is reasonable for them to make to their procedures and premises to help disabled people to access services. This legislation covers polling stations.

7. KEY RISKS

Poor designation of polling districts and polling places could have an adverse effect on the administration of future elections, directly impacting on the electorate.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

In designating polling districts and polling places, the Council must ensure that all the electors in the constituency have reasonable facilities for voting.

8.2 Growth and Sustainability

The designation of accessible polling districts and polling places ensures that the views of electors on issues such as growth and sustainability can be properly heard at elections through the voting process.

8.3 Strong Communities

The designation of accessible polling districts and polling places ensures that communities are able to participate in the democratic process through voting and that the reasonable needs of the electorate are adequately provided for.

9. EQUALITIES IMPACT IMPLICATIONS

No equalities impact assessment has been undertaken at this stage as the delivery of the electoral process is strictly governed by legislation, which is in itself designed to provide for equal access to all users. When providing quality electoral services, consideration must be had, and is given, to the needs of all electors.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The designation of appropriate polling districts and polling places will assist the Returning Officer in continuing to deliver high quality electoral services across the borough.

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Councillor Questions – 29 January 2014

Section 1 Questions for Cabinet Members

Question 1 from Councillor Pearce to Councillor Hamilton, Cabinet Member for Community Wellbeing and Public Health

The Department for Communities and Local Government (DCLG) has announced the protection of public health budgets. However Councillor Hamilton will be aware that her administration is proposing to divert certain funds from the new public health budget for purposes which are not directly related to obvious and real health problems. An example is the use of the health budget for pavement gritting. Given there are such known demands for real health care in the borough does she support the use of public health money for this purpose? Does she not agree with my view, that the use of such funds for purposes either remotely or unrelated to health, undermines the cross-party support for improved health care and undermines the arguments we have raised for greater health funding for the residents of the Borough?

Reply from Councillor Hamilton

I agree that Enfield has significant public health needs. Public health funding will not be diverted to areas that have a low impact on the public's health. The proposal about gritting was an early proposal which has been rejected, as it was not high enough priority relative to other needs. The alternative funding source agreed by Cabinet is the wider Winter Maintenance budget.

Public Health expenditure will continue to be reviewed against the mandatory and non-mandatory public health criteria to ensure evidence of effectiveness and cost effectiveness.

Question 2 from Councillor Savva to Councillor Stafford, Cabinet Member for Finance and Property

Would the Cabinet Member for Finance and Property inform Councillors, all elected representatives of Enfield and the borough's residents, of the level of Council Tax collection and arrears and how this compares with other boroughs?

Reply from Councillor Stafford

Enfield's overall council tax collection rate of 98% is the second highest in London, on a par with Bromley, Kensington, Richmond and Sutton and better than Wandsworth and Westminster. The council tax collection fund is also in surplus which demonstrates even better collections in recent years. With the sixth highest collectable amount and the second highest council tax support caseload in London, the council tax service uses the full range of recovery methods to recover debt which can often take some time to collect. For example, for council taxpayers receiving benefit, the council will apply for a deduction from state benefits rather than refer the debt to a bailiff. While this results in payment over a longer term, this also allows for regular automated payments to be made and a low cost of collection.

Last year we recouped c£6m in council tax arrears, the highest amount in London and fourth highest nationally. In addition, more than £5m of council tax debt is secured against people's properties and many debtors have agreed repayment plans in place.

Enfield will continue to take a responsible and cost effective approach to debt collection which is fair to all – fair charges and fair collection methods to ensure that the income we need to deliver our services is secured.

Question 3 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

It has come to my attention that there are a number of proposals across the council to use part of the £12m plus budget ring fenced for public health purposes for matters which might appear to be somewhat remote from public health purposes. An example is to use the health budget for pavement gritting. Can he tell the council how much money he is proposing to divert in total from the public health budget as part of the 2014/15 annual budget, and for what purposes?

Reply from Councillor Stafford

In 2014/15 the Council will receive a £14.3m budget to be spent on Public Health. The majority of these funds will be required for known health commitments which had previously been provided by the NHS. The Council is carefully considering the allocation of the remaining budget and has already committed to support such health issues as childhood obesity and female life expectancy in deprived areas. The final allocation of the budget will be included in the Council Tax setting budget paper in February. The scope of Public Health is broad, and not confined to medical purposes. Similarly, it would be incorrect to suggest that Public Health funding is being diverted away from Public Health. With Public Health joining the Council; we now have far greater opportunities to target this funding on the Borough's Public Health priorities. It should be noted that use of Public Health funding was considered for the pavement gritting programme but it was subsequently agreed at Cabinet to fund this from the wider Winter Maintenance Programme.

Question 4 from Councillor Uzoanya to Councillor Oykenner, Cabinet Member for Housing

Can the Cabinet Member tell the Council how many properties sold under the Right to Buy are now owned and operated by private landlords?

Reply from Councillor Oykenner

As at December 2013 there are 2,264 non-resident leaseholders within the council stock. This equates to about 49.9% of the leasehold portfolio. This is at odds with the needs of many Enfield residents who need genuinely affordable properties to rent. Most of these 2000+ properties that were affordable will now be rented out at market rates. It also leads to less stable communities on our estates as many of these private tenants have no real stake in their local community.

Question 5 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

How does he justify the lack of factual information behind the proposed reductions listed in the budget consultation that appeared in the recent edition of Our Enfield which to many would seem inadequate to enable anyone to form a reasoned view?

Reply from Councillor Stafford

The Council has a comprehensive consultation process with the aim of getting as many views as possible to inform the budget process. The insert in Our Enfield has been a feature of this process for many years and this year primarily seeks to identify which services are highest priority to the public. The consultation process also includes detailed presentations at all Area Forums, Scrutiny Panels and also specific groups such as the Over 50's Forum and Enfield Racial Equality Council so there are many ways that residents can challenge, scrutinise and engage in the budget process.

Question 6 from Councillor Constantinides to Councillor Bond, Cabinet Member for Environment

On 9 January 2014, 10 fire stations will close in London. The number of fire engines have been reduced by 14. Is London and are residents across London and within Enfield safe as a result?

Reply from Councillor Bond

We are obviously very concerned about any changes to the London Fire Brigade and the service it provides to our residents. (Joanne McCartney, the Assembly Member for Enfield and Haringey has also consistently opposed these cuts due to the impact they will have on London).

Whilst Enfield is not losing any stations or fire engines, there is a net reduction of two fire engines from neighbouring local authorities, which will have often dealt with incidents in Enfield. It is also of concern that the Fifth London Safety Plan 2013-16 highlights that with these changes, Enfield will have the slowest average first appliance performance at 6m:26s and I would urge the Mayor to reconsider these cuts to ensure the safety of the people of Enfield.

Question 7 from Councillor Lavender to Councillor Taylor, Leader of the Council

On 14 November 2013 a meeting of the Tourism and Town Twinning Working Party was held in Room 6 at 7:30pm. An item on that agenda was an audit of local leisure and culture provision. The report recommended the closure of libraries within the Borough.

This report was withdrawn at the meeting.

Interestingly following that meeting the agenda and reports were removed from the Council's web-site. In fact not only were the reports removed, but also the very existence of the committee meeting has been airbrushed in its entirety from the Council's calendar in North Korean fashion.

Will he please explain reasoning behind this lack of transparency and undertake to upload to the web-site, the existence of the meeting, the reports and minutes for the public record?

Reply from Councillor Taylor

Items for the agenda of this meeting are discussed with the Head of Leisure & Culture. The report on the audit of Leisure & Culture Provision May 2011 was included in an email about the agenda for the meeting in error.

Once the agenda had been published the Head of Leisure & Culture realised the error. An apology was made at the meeting; however, as this was an old report from May 2011, there was never any intention to discuss the report.

This is not a public meeting and therefor in line with other such meetings, the agendas and minutes are not published on the website. Of course this is not an executive meeting and there are no proposals to close any libraries.

Question 8 from Councillor Levy to Councillor Bond, Cabinet Member for Environment

Siberian wintery blasts may well hit the UK over the next few months. Given falling living standards under this Government and the likelihood of people needing to economise on heating this is bad news for residents. What is the Cabinet Member doing in terms of roads, in spite of savage Government cuts, to keep Enfield moving?

Reply from Councillor Bond

I approved Enfield's winter Maintenance Plan for the winter of 2013/14 back in the summer after much discussion and involvement with officers. The plan describes the arrangements that we have put in place to ensure the key roads throughout the borough are kept open to traffic during bad weather and involves Council Officers working with our Highways and Engineering Works Contractor, 'EM Highway Services' to provide 24 hour cover during the winter maintenance season, which is 1st November until 31st March.

Our winter maintenance service involves treating the public highway with salt, either to prevent ice from forming or to melt it once it has formed; and also to melt/remove snow.

Enfield grits 47% of its road network, referred to as the Priority 1 network, which comprises of major routes, all bus routes and especially hazardous locations. Due to the large additional cost, we would only consider gritting all the roads in the borough if heavy snowfall remained over a long period. The decision to commence gritting all

roads would be made by the Assistant Director for Planning, Highways and Transportation, taking into account existing salt stocks, the commitment required to maintain the priority 1 network and long range forecasts.

Our contractor has a large salt stock of 2,000 tonnes at their Brimsdown depot specifically for Enfield's roads and we have an additional 500 tonnes at our own Council depot, so we are well placed for dealing with this winter.

When there is a forecast for heavy snow fall with a prolonged cold spell to follow, resulting in snow remaining on footways for a number of days, arrangements are in place for the Council's Cleansing department to grit main pavement routes.

We have provided a dedicated winter service web page (Winter in Enfield) on the Council's web site to provide information to the public. This information comprises, gritting information and route plans, self-help guidance and the locations where the Council provides large salt bags, weather forecasts, policy guidance and a photo gallery.

Question 9 from Councillor Kaye to Councillor Orhan the Cabinet Member for Children and Young People

Councillor Orhan will no doubt be aware of the report from the National Audit Office, *Capital funding for new school places*, 15 March 2013 which confirmed that the previous Labour Government cut 200,000 primary places in the middle of a baby boom. It found: 'the number of primary places fell by almost 207,000 (5 per cent) between 2003/04 and 2009/10 despite the fact that 'between 2001 and 2011, the population of England and Wales showed the largest ten-year growth since the census began in 1801. She will also be aware of the report in Hansard, 11 July 2011, Col. 96W confirming that the previous Labour government cut funding for extra school places by a quarter. Between 2004 and 2009, Labour cut annual funding for new school places by £150 million, or 26 per cent. Funding fell from a peak of £566 million in 2004-05 to £419 million in 2009-10.

The Cabinet Member for Children and Young People will no doubt be aware that the Government has announced an extra £2.35 billion to create more school places. This is in addition to the £5 billion that is already being spent in this parliament. This means that between 2014 and 2017 schools in Enfield will receive a further £33,528,076. Since May 2010 Enfield Schools have received £102,036.

You now have a 3-year allocation of funding to spend on school places, you can now plan ahead and ensure every Enfield child has a school place. Will you please outline how and where this money is to be spent?

Reply from Councillor Orhan

Financial Monitoring Service (FMS) have checked this figure and can confirm that it should be £103,036,000 and is based on all capital grant allocations (including Oasis Hadley £20.073m) between 2010/11 and 2013/14. This information was already provided to the Conservative Members via the Assistant Director Corporate Finance on 6th January. The £33.528m relates to the Basic Need allocations for the 3 years

between 2014/15 to 2016/17 announced in December.

An estimated capital grant allocation of £8.7m per annum was assumed within the Schools and Children's Services (SCS) capital programme for this 3 year period. This is required to part fund the SCS school expansion scheme which is already part of the Council's approved capital programme. The additional grant funding of £7.428m will be used to reduce the unsupported borrowing currently required to fund these schemes.

As Councillor Kaye well knows the money received from the Government was not all allocated for school places. When this Administration came into office in 2010 we were determined to provide sufficient places whether the Government allocated us the funding or not and have used other sources of funding to ensure we meet our statutory responsibilities. As a result of this we have made plans going forward of how we are going to meet the continued demand for school places in the future and these plans have been made public as part of a series of Cabinet Reports on 20 June 2012, 5 December 2012 and 19 June 2013. We will of course update our plans now that this much needed additional funding has been provided by the Department for Education (DfE) and Councillors will be informed through the normal democratic process.

Question 10 from Councillor Brett to Councillor Bond, Cabinet Member for Environment

David Cameron on 8 January 2014 admitted during Prime Minister's Question Time that he supported the view that extreme weather was linked to climate change and added that it made sense to invest in flood defences. Let us hope that climate change deniers in his party will now be silent. Can Councillor Bond indicate what changes are being made in Enfield to protect people and property?

Reply from Councillor Bond

In 2012 Enfield Council published a Surface Water Management plan which sets out an action plan for managing flood risk in the borough. This identifies high risk areas of flooding and makes recommendations for reducing flood risk in these Critical Drainage Areas. Several of these recommendations are currently being followed up with funding support from Department for Environment, Farming and Rural Affairs (DEFRA) and the Thames Regional Flood and Coastal Committee - in particular flood alleviation schemes for Enfield Town and area around Haselbury Road have been significantly progressed and could be implemented within the next 2 years. Enfield has also carried out several highway drainage improvement schemes in recent months to protect major roads including The Ridgeway, Whitewebbs Lane and Meridian Way from flooding.

In addition, two CCTV cameras have been installed this year at flooding hot spots to enhance Enfield's existing network of river level monitoring equipment i.e. Mollison (Prince of Wales School) and Bury Lodge. This equipment allows Enfield's emergency planning team to monitor flood risk in real-time and make informed decisions in response to the situation on the ground.

For several years, Enfield Council has been working with the Environment Agency to develop the Salmons Brook Flood Alleviation scheme. Works are progressing well on site which will result in a reduction in the risk of flooding to properties along Salmon Brook.

Question 11 from Councillor Smith to Councillor Oykenner, Cabinet Member for Housing

The present Government recognises the need for more housing to be provided in appropriate locations. The previous Conservative administration in Enfield also recognised this and therefore established the Meridian Water proposals to create 5,000 new homes, the regeneration of the Ladderswood Estate and initiated proposals for Ponders End in addition to preparing some smaller sites in Town and Chase wards.

Authorities that deliver new homes are awarded a New Homes Bonus. Following the delivery of 2,010 new homes (including affordable homes) and the bringing back into use of 47 long-term empty properties, the total amount allocated by Central Government to the London Borough of Enfield under the New Homes Bonus since its introduction in 2011-12 including the 2014-15 provisional figure, is £8.2 million. This is not an insignificant amount of money and if used wisely can assist in the delivery of even more homes creating a virtuous circle of regeneration and financial reward.

Would the Cabinet Member please confirm exactly how this sum has been spent and (in relation to the 2014-15 provisional figure) how this is budgeted to be spent).

Reply from Councillor Oykenner

The Council is fully committed to the delivery of more homes in the borough and as you will know continues to progress a number of major housing renewal schemes including the Alma and Ladderswood Estates.

The Council has been awarded £8.2m of New Homes Bonus (NHB) so far. You will recall that the Government fund New Homes Bonus by a top-slice from the existing Local Government Finance Settlement which adds to the reduction in Enfield's existing Government grants.

I can confirm that the £8.2m NHB confirmed to date has been specifically allocated in respect of:

- Money set aside to bring empty properties back into use £0.5m
- Provision for homelessness and temporary accommodation initiatives £3.0m
- Regeneration – development of new homes in Ponders End and Meridian Water £2.5m
- Strategic Planning and the development of Area Action Plans

enabling new Development Areas to be identified £1.0m

- The allocation of uncommitted 2014/15 NHB is still to be finalised but will be split between homelessness initiatives and supporting regeneration at Meridian Water £1.2m

Question 12 from Councillor Simon to Councillor Georgiou, Deputy Leader of the Council

Can the Deputy Leader of the Council inform the Council of any outcomes resulting from the Deaf Area Forum held on 26 November 2013?

Reply from Councillor Georgiou

I can confirm that the first Area Forum for the deaf community was held on 26th November 2013.

The forum was very well attended and the feedback received at the end of the meeting was extremely positive.

The agenda was set by members of the deaf community and Council Officers provided a great deal of information.

In addition Daniel Alei (Manager Southgate Fire Station) attended and spent some time on what the Fire Service does and how those who are deaf can feel safe and be safe in their homes.

I am now able to inform Council that at the forum the Fire Service received 12 referrals and are fitting 12 Special Fire Alarms to residents' homes in the borough. These alarms are specially designed to make deaf people aware of smoke in their homes. The alarms will be fitted by one of our local fire fighters who have been trained to sign.

I am sure all members who attended the forum would recognise the success and the manner in which this Council has engaged with the deaf community and also provided a very real positive outcome for the deaf community.

I would like to thank all those involved, in particular the residents who attended.

I have asked for a further Forum to be arranged.

Question 13 from Councillor Jon Kaye to Councillor Orhan, Cabinet Member for Children and Young People

In 2010/2011 the Government awarded Enfield Council the following grants for Educational Expenditure:

- Modernisation Grant, £2.508m
- Primary Capital Grant £7.435m
- Basic Need Grant £6.491m

In 2011/2012 the Government awarded Enfield Council the following grants for Educational Expenditure:

- Basic Need Grant £5.561m
- Basic Need Additional Grant £10.436m
- Maintenance £4.664m
- Oasis Hadley Grant £6.941m

In 2012/2013 the Government awarded Enfield Council the following grants for Educational Expenditure:

- Basic Need Grant £9.464m
- Basic Need Additional Grant £10.796m
- Maintenance £4.180m
- Early Years Education £1.099m
- Oasis Hadley Grant £13.132m

In 2013/2014 the Government awarded Enfield Council the following grants for Educational Expenditure:

- Basic Need Grant £7.266m
- Targeted Basic Need Additional Grant £7.530m
- Maintenance £4.083m

- a. Will the Cabinet Member for Children and Young People concur with my mathematical calculation that the grants awarded by the Government amount to in excess of £101m over the last four years?
- b. Will she confirm the amount of the sums promised and not delivered under the previous Government's Building Schools for the Future Scheme and agree with me not only are those promised but undelivered sums far exceeded by the financial support provided by this Government but also that given these grants do not contain the conditions and strings attached to the Building Schools for the Future Programme, that these grants have facilitated a much swifter delivery of school places than could ever have been achieved under the failed Building Schools for the Future Programme.
- c. Will she join with me in recognising the coalition parties' commitment to education and their role enabling schools to be built now?

Reply from Councillor Orhan

- a. Figures listed were provided to Conservative Members' office via the Assistant Director Corporate Finance on 6 January and are correct.
- b. I am happy to confirm information we have already given you regarding the total amount of grants received. However, I do need to reiterate that these grants were not all to provide school places. They also included much

needed capital investment in our school buildings and to complete the provision of one of our secondary Academies. Regarding funding for Building Schools for the Future, I can confirm that the total amount was £110m. I am surprised that I have to remind colleagues that this money, that was stopped by the coalition Government in 2010, was to be allocated for secondary schools and making much needed improvements to their buildings. It was not about expansions, and certainly not about providing primary school places.

c. No.

Question 14 from Councillor Cazimoglu to Councillor Oykenor, Cabinet Member for Housing

Would the Cabinet Member for Housing inform the Council of the new deal signed with British Gas and how this will benefit many Enfield residents?

Reply from Councillor Oykenor

The contract for this proposed scheme is not yet signed. Unfortunately, the preferred bidder, British Gas, are currently reviewing their Energy Company Obligation (ECO) obligations in light of recent changes to energy company carbon reduction targets announced by the Department of Energy and Climate Change (DECC), in early December 2013.

If agreed, this private sector project will focus on bringing in ECO funding into Enfield. This will be achieved by working closely with British Gas to install insulation, boiler upgrades and other applicable measures for private sector homes (owner occupied and private rented) in the Edmonton area.

This will:

- Improve the thermal comfort of people's homes
- Reduce health inequalities in Enfield
- Support local jobs and businesses.

With regard to our Council stock, ECO works are planned to the four blocks at the Exeter Road Estate, together with Welch House and Woolpack House.

The works will include Insulated Roof Covering, External Wall Insulation and new Double Glazed Windows to 300 flats (including 45 leaseholder units). These measures will help to reduce the fuel consumption for the residents of these flats typically by 40%, which will significantly help to alleviate fuel poverty issues.

We continue to discuss these proposals with British Gas and hope to conclude contracts for these works in the near future.

Question 15 from Councillor Kaye to Councillor Orhan, Cabinet Member for Children and Young People

The Cabinet Member for Children and Young People will be aware of the concerns in the South West of the Borough about the need for more local primary school provision. Ashmole Academy, albeit in Barnet, is ranked as one of the most successful secondary schools in the country. In view of this growing demand in the immediate area for more primary school places, it has announced that it is actively considering the development of a Free primary school on the site. The proposal is to have the school open for September 2015. Before it can start, the school Ashmole Academy is required to apply to the Department of Education for the funds for the construction and to demonstrate that there is sufficient interest to fill the school.

Does the Cabinet member for Children and Young People support this initiative? If so, is the Council prepared to provide the data evidencing the need for more pupil places in the area to the Department for Education?

Reply from Councillor Orhan

I would like to remind Councillor Kaye of the 2 Council reports dated 20 June 2012 and 19 June 2013 that outline this administration's proposals for meeting the need for pupil places across Enfield and include the plans for the south west of the borough. When they were written they did not include any planned developments in our neighbouring Local Authorities and at that time we were not aware of any plans to expand Ashmole Academy. They are public documents and as such are available for anyone considering applying to the Department of Education (DfE) to open a free school. They provide the data demonstrating the need for more places.

With regards to Ashmole Academy proposals, I am aware that they contacted us directly to inform us of their intentions and we have responded to them as we have to other groups interested in opening a Free School. (I am sure I do not need to remind Councillors that Local Authorities do not have a role in approving or disapproving of such applications to the DfE in the initial stages).

Now that they have informed us of their intentions we will be looking at our strategy for school places in the area and considering the impact of the proposals for Enfield children and young people.

Question 16 from Councillor Sitkin to Councillor Bond, Cabinet Member for Environment

Could the Cabinet Member for Environment give an update on the Mini Holland bid?

Reply from Councillor Bond

Enfield was one of only 8 boroughs short-listed to proceed to the final stages of the Mayor's £100m 'Mini-Holland' initiative to transform cycling in outer London. Our bid was submitted on 13 December 2013 and proposes a £35m package of measures aimed at getting more people cycling, improving the health of residents and supporting economic activity in our town centres and regeneration areas. The measures aim to provide safe, high quality cycle facilities across the borough, but focus on making significant improvements in Enfield Town, Edmonton Green, the A1010 corridor and Green Lanes.

The proposals were presented to Andrew Gilligan and a panel of experts on the 20 January 2014 and we expect to hear whether we will be one of the four boroughs that have been successful before the end of March 2014. I would like to take the opportunity to thank Councillor Laban for her support.

Question 17 from Councillor Vince to Councillor Orhan, Cabinet Member for Children and Young People

At the last Corporate Parenting Committee, which you were unable to attend, it was agreed that Enfield would have its own pledge to Care Leavers (as well as the National Pledge). Would you please confirm that you have now signed this Pledge?

Reply from Councillor Orhan

I am fully committed to the Enfield Care Leavers Pledge, which I signed on 18 November 2013, prior to the Corporate Parenting Group in December 2013.

Question 18 from Councillor Constantinides to Councillor Taylor, Leader of the Council

Will the Leader of the Council congratulate the residents of the borough who were given awards in the Queen's New Year Honours list?

Reply from Councillor Taylor

I would like to congratulate those residents of the borough who were given awards in the Queen's New Year's Honours list. It is always heart-warming to see recognition of commitment, dedication and hard work.

Question 19 from Councillor Martin Prescott to Councillor Doug Taylor Leader of the Council

In the financial year 2012-2013, the Council awarded voluntary organisations and community groups £7,614.042 of public money. At a previous council meeting on the 19 September 2012 the Conservative Group tabled a motion in relation to the improvement of governance issues concerning these arrangements. This motion was never reached because of the Labour administration's tactic of agenda management and filibustering to avoid proper scrutiny.

Will Councillor Taylor confirm who in the council is responsible for documenting grant agreements (including the stipulated outcomes) and who in the Council is responsible for contractual compliance, monitoring the performance of outcomes and/or value-for-money monitoring. What involvement have councillors had in this process? We fear that in many instances there has simply been a case of handing out cash with little or no requirement (or effort made by the Council) to monitor or prove any outcomes.

Reply from Councillor Taylor

I would like to thank the Councillor for bringing to wider attention the continued commitment Enfield Council provides in supporting the delivery of services to local people via our partners in the Voluntary Sector. Unlike many other local authorities, we have not simply closed the door on partnership working with the Voluntary and Community Sector (VCS) but have correctly seen the opportunity to deliver services with them as a key component in supporting our residents in these very testing times.

We have revisited existing working practices with the VCS and developed a VCS Framework document in consultation with them, "Working in Partnership", that sets out clear principles for our approach that are underpinned by a focus on fairness, transparency, consistency and the demonstration of evidence of need and measurable outcomes as fundamental tenets of how to agree service delivery with the sector.

The Council takes the issue of accountability of funds in all spheres of delivery very seriously and we have worked with officers across Departments to develop a more robust approach to the performance management of funds than those we inherited from the previous administration. This aim, whilst hugely challenging is critical as funding becomes ever scarcer and more difficult decisions need to be taken. At present, each Department has responsibility for the grant funding streams it sponsors and are committed to regular performance management of agreements to ensure that stated outcomes are reached and budgets awarded are accounted for. Eligibility criteria, where not prescribed from Government, are developed to be robust and ensure that we do all we can to maximise value for money for the local authority. Officers in the Legal Department provide support and guidance during the development phase of grant programmes to ensure compliance with statutory regulation and also to test against our own stated strategic aims as an administration.

All grant funding streams are made available to regular audit and where recommendations are made for improvement they are taken forward and necessary action taken. Indeed we have looked to increase the degree to which audit are involved in providing an assessment in how we do business that is rather more robust than it had been historically.

Councillors with portfolio responsibility are involved in the design and implementation of grant funding opportunities within their designated departmental areas. To give a current example, in the case of our two new flagship grants programmes, the Member-led Enfield Residents Priority Fund and the Enfield Community Capacity Building Fund, a bespoke Cabinet sub-Committee is employed to scrutinise all potential grant awards coming forward and agree their awards, often seeking clarification on matters pertaining to them before doing so to ensure the effective deployment of funding. This is in addition to a quality assurance process for bids received that is enacted by officers upon receipt of prospective funding applications. We have demonstrated our commitment to develop and enact good practice when we recently engaged in a corporately led, transparent and inclusive 'competitive grants process' to provide refreshed non-Departmentally specific infrastructure agreements. These agreements featured for the first time fully measurable, timed outputs and outcomes directly linked to the receipt of funding payments and began

the process of moving us away from the old style 'core funding' agreements that proved difficult to evaluate and were not fit for purpose.

The corporate teams in administering grant funding streams such as these apply robust, best practice quarterly performance management monitoring of those agreements and will not release funding until evidence of a previous quarters outputs/spending has been provided.

Support is also offered to partner organisations to consider their longer term sustainability as part of the partnership work we engage in with them to ensure where spend is one-off it does not necessarily mark the end of the activity and alternative external funding sources can be considered.

This has created a benchmark environment by which all Departmental activity of a similar nature can follow as existing agreements wind down and new commissioning intentions are developed across the Council to meet future need. It forms the basis of our desire to create a consistent and transparent approach to grant spending in line with our own stated objectives across the Council that will deliver accountable and appropriate services for local people to access and benefit from.

We also continue to look positively at how we can maximise effectiveness structurally as an organisation to make processes even more transparent and coordinated as we seek to remodel the functions of the local authority to meet future demands.

Question 20 from Councillor Cole to Councillor Goddard, Cabinet Member for Business and Regeneration

Can the Cabinet Member update the Council on the current position with regard to Broomfield House?

Reply from Councillor Goddard

Despite the fire damaged condition, Broomfield House remains on the Secretary of State's list of buildings of special architectural or historic interest at Grade II* and the focus of Broomfield Park, which is on English Heritage's Register of Historic Parks and Gardens. As such it is part of the National heritage and alterations to it are protected by legislation and would require the approval of both English Heritage and potentially the Secretary of State.

Under this legislation the Council, as the owner of Broomfield House are obliged to consider all options for its restoration. Restoration, as we all know, would involve significant costs. Meeting the totality of these costs would clearly be beyond the scope of the Council's budgets in this time of austerity.

This is why the Council, working in partnership with the Broomfield House Trust and others from the local area, made an application to the Heritage Lottery Fund last year to secure a quantum to support the restoration of the House. Although this application was scored very highly, the quantum of the Heritage Lottery Fund (HLF)'s budgets combined with competition from larger nationally significant projects meant

that the HLF felt unable to approve the application. This was a huge disappointment for the Council, for the Trust and for local people generally.

Since then we have confirmed with the Trust that we would all still like to find a way of securing the necessary level of funding to get this project moving and to that end the Trust, supported by the Council, have been pursuing a number of funding bodies. A reasonably large sum is to be raised, so these efforts will take time to bear fruit. In the meantime the Council continues to manage the site.

However, it has become clear that over the next 12 months a decision on the future of the House must be made.

Question 21 from Councillor Vince to Councillor Orhan, Cabinet Member for Children and Young People

On several occasions I have raised the matter of the shortcomings within the Schools Lettings Service and how this was undermining the income to our schools. Following this, an internal audit has been undertaken which vindicates my concerns. However there is no recommended action plan proposed to the Audit Committee to further improve the service given the report states that 'the future provision of services is currently under review'.

If the Schools Lettings Service is under review why has this not been identified in the budget process? What consultation has taken place with service users?

Reply from Councillor Orhan

I would like to thank Councillor Vince for her continued and persistent concern for the situation regarding the Lettings Service. I want to remind her that we also shared the concerns regarding the issues raised and we asked for internal audit to look at what we had done to remedy the situation and suggest possible ways forward. My officers have put considerable additional resources into exploring a number of solutions that have in our opinion raised the question as to why we are continuing to offer this service in the current financial climate. I would like to remind Councillor Vince that our core purpose is to support our schools in raising the achievement of our pupils and not in raising income for them. I understand that all Councillors at the recent Audit Committee were in agreement with that priority and we have now started the process of consulting with the schools who buy into our traded service about our offer for 2014/15.

Question 22 from Councillor Keazor to Councillor Charalambous, Cabinet Member for Culture, Leisure, Youth and Localism

Can the Cabinet Member update the Council on progress on the Ordnance Road Joint Service Centre?

Reply from Councillor Charalambous

The construction of the new Joint Service Centre, now known as "Ordnance Unity Centre" following the Name the Facility competition with local residents, is

progressing well. The former Ordnance Road Library has been demolished and all excavation and ground works for the new building have been completed, with the foundations for the ground floor now in place. The contractor started work on the building frame in January 2014, following some more detailed design workshops with key stakeholders and is on track to complete the development in Summer 2014, as planned.

The temporary library and Kettering Hall remain open and well used by local residents during this construction period, following which both services will re-locate to the new building. With regards to preparing for the opening of the new facility, NHS England has identified a community dentist to re-locate to the new facility once complete, to provide specialist dental services to those patients who may experience difficulty getting treatment in a typical high street dentist. The procurement for the GP provider is ongoing and a contract is expected to be awarded in Spring 2014, so the provider has a period of transition in the current Ordnance Road Surgery premises until the move to the Ordnance Unity Centre.

Question 23 from Councillor Smith to Councillor Oykenner, Cabinet Member for Housing

The Internal Audit plan of Enfield Homes has revealed that in relation to the recommendations of the 2011/2012 audit plan, of 12 recommendations, only three had been implemented, seven were still being progressed and two were not implemented at all. Is the Cabinet member for Housing satisfied with this and if not what action does he propose to take to remedy this situation?

The Internal Audit plan of Enfield Homes for 2012/2013 has made 34 recommendations, six of which are categorised as being of high importance.

Furthermore eleven of the recommendations concern Health and Safety, of which three are categorised as being of high importance. Two of these recommendations concern the lack of a centralised asbestos register and the risk that records concerning asbestos are not accurate or up to date. What is worrying is that the audit revealed that the Head of Health and Safety was aware of these issues at the outset of the review.

Given the shortcomings in implementing previous recommendations, and the importance of the fresh recommendations to the safety of tenants and contractors, what action does he propose to take to ensure that these recommendations are in fact implemented?

Reply from Councillor Oykenner

I am informed that the current position, in relation to the 2011/12 recommendations, is that 11 of the 12 have now been implemented and the last likely to not be actioned on the grounds of efficiency and following legal advice. For the 2012/13 recommendations 24 of the 34 are now implemented with the remaining 10 in progress. On the main health and safety recommendations, Enfield Homes is working jointly with the Council to bring elements of this service together and expects to complete this before the end of this financial year.

The new management team of Enfield Homes have given renewed priority to implementing these actions and I will expect to be kept updated on the progress I have asked for as the remaining recommendations are actioned in the coming weeks.

Question 24 from Councillor Taylor to Councillor Bond, Cabinet Member for Environment

Could the Cabinet Member give an update about enforcement of the spitting ban in Enfield?

Reply from Councillor Bond

You may be aware that the bye-law was introduced as a result of public concern and over 4000 people responded to consultation with almost 99% in favour of the ban. It is of serious concern to many people. However, we may have scored an "own goal" this week with our letter to football clubs. We have no intention of prosecuting football players or anyone playing organised sports. On the contrary, we want to give the "red card" to poor health and encourage people to get fit and make use of the fabulous parks and open spaces in the borough.

Update:

- Spitting bye law came into force on 8 December last year.
- 5 x actions taken
- No additional costs
- 4000 consultation responses - 98.8% in favour
- Developing a fixed penalty notice option - quicker and more effective

Enfield is only the second borough/ area in the country to introduce the spitting ban (Doncaster is the first but they haven't implemented yet).

Question 25 from Councillor Smith to Councillor Oykenner, Cabinet Member for Housing

Enfield Homes' tenant satisfaction survey carried out in July and published in December, reveals that only 45% of general needs tenants considered that Enfield Homes listens to views and acts on them and only 47% of general needs tenants considered that service charges provide value for money. Why does Councillor Oykenner believe this to be the case?

Reply from Councillor Oykenner

I am sure you would like to join me in congratulating Enfield Homes for achieving their highest ever customer satisfaction levels ever at over 74%. I should also point out the higher levels of satisfaction amongst tenants with the Repairs and Maintenance service (78%) meaning that Enfield Homes tenant's satisfaction with repairs is in the top 25% for London.

These high levels of satisfaction do not obscure the fact that there are a number of

areas where further improvements can be made.

It is my belief that we need to examine the way that we consult with our residents to ensure that people from all ages and backgrounds are able to contribute to improving the services. To that end, Enfield Homes have begun a review of the way it delivers resident involvement. The review will look at ways of increasing involvement and of interesting younger members of our community and will provide interim recommendations by the end of March which aim to increase satisfaction. In relation to the 47% satisfaction achieved in the area of service charges being value for money, I would agree that this finding is disappointing given that 73% of tenants regard rent levels as value for money.

I will ask Enfield Homes to further investigate this matter as it is our intention to maintain the improvements in services that we have made in recent years.

Question 26 from Councillor Lavender to Councillor McGowan, Cabinet Member for Adult Services and Care

How can Councillor McGowan justify the comment in the budget consultation document that the Council is doing 'more with less' when one of the reasons for the 'less' is that a sixth of debts due to his department in relation to the provision of social services care, remain uncollected? (Source: Agenda Item 8 at Older People and Vulnerable Adults Scrutiny Panel).

Reply from Councillor McGowan

I'd like to start by saying that in Adult Social Care we are dealing with some of the most vulnerable people in our community and that our priority remains to ensure that those people receive the support they need to remain safe. We continue to see increasing demographic growth including safeguarding investigations. Despite this we have delivered efficiency savings of £2.9million whilst maintaining service levels and quality with satisfaction levels amongst the highest in London.

Nevertheless we also recognise that the collection of fees and charges from service users that are reinvested back into the provision of services is essential. I'd like to make two points in order to respond fully to the question asked:

Firstly, Adult Social Care generated approximately £15.3 million of income through fees and charges last year. A proportion (around two thirds) of this debt at any one time is recorded as not yet paid, but may not be due for payment.

Our invoicing team works very closely with front line services and where there is a build-up of debt, early contact is made with service users in an appropriate way. By intervening at an early stage we are able, in most cases, to resolve any difficulties people may be having in meeting the cost of their charges. There are unfortunately cases where legal recourse does need to be sought but these are rare.

Secondly, a large proportion of Adult Social Care debt which builds up over quite a lengthy period of time specifically relates to charges which the Council lodges against the properties of people receiving care, consistent with Government

Guidance. Where people do not have sufficient funds to pay their residential care costs but do own a property, the Council will meet these costs on their behalf. We have a statutory obligation to offer this to people. The value of this deferred debt is substantial in any given year but is always recouped once the property is sold. It would be wrong, therefore, to suggest that this remains uncollected. Indeed, since your administration ended in 2010/11, Social Care debt has been reduced from £4.5m to £3.4m, some 24%.

Question 27 from Councillor Hurer to Andrew Stafford, Cabinet Member for Finance and Property

1. What checks are currently being carried out to ensure that where more than one surname is registered at an address only single Housing Benefit etc. is paid?
2. Where there are several recipients of other benefits registered at one address, is a cross check done with respect to the number of bedrooms and the number of individuals allegedly living at these premises. Are these premises cross checked with the planning department to ensure that they are noted as being an HMO (House of Multiple Occupation)?
3. How many visits have our officers carried out over the last 12 months to ensure that the individuals noted as living at the address actually live there?
4. Are names of benefit applicants checked against passports?

Reply from Councillor Stafford

1. Because benefit is paid against property units, including HMO's, only one housing benefit claim per property unit can be paid at any one time.
2. HMO property units are identified as a result of information received from Planning. If multiple claims are received for one address, or one property unit, a visit will be undertaken to confirm the situation. If as a result of the visit a new property is confirmed as an HMO then the Planning Department is advised. Any newly banded property units following a split of a property we receive from the Valuation Office for which no planning permission has been granted are referred to Planning Enforcement immediately.
3. Over 7,300 visits have been made to benefit claimants in the last 12 months.
4. All applicants have to provide photographic evidence of identity. Foreign nationals must present either a passport or national identity card as a form of ID.

Question 28 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

The Audit Committee on 9 January 2014 received a report from the external auditors dealing with the certification of various claims, including those for housing benefits

which disclosed that the council was to be charged some £19,000 in additional fees as a result of a series of some 40 errors in the computation of those claims. Could Councillor Stafford tell the Council whether he regards this level of error with associated additional fees as acceptable?

Reply from Councillor Stafford

The additional fees charged by the external auditor related to additional sampling they requested to undertake following the identification of six errors in their initial audit. As the external auditors explained at the recent Audit Committee this is not unusual as the claims are very complex. As a result of the additional sampling the auditors concluded that they were human error and the subsidy claim was revised slightly and submitted. The District Auditor also explained at the Audit Committee that the controls on the benefit claim were good. Enfield Council takes quality assurance of the 137,000 benefit claims and changes in circumstances it receives each year very seriously and has robust checking procedures in place.

Question 29 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

At the Audit Committee on 9 January 2014 the external auditor reported that progress on resolving objections to the council's accounts for 2012/13 which had been programmed to be completed before the meeting, had been slower than he had anticipated and that there was a good deal more investigative work to be undertaken.

Does he recall that on the last occasion the Labour party controlled the council prior to 2002, the then District Auditor found it necessary to issue a Report in the Public Interest against the council, believed to be the only one in Enfield's 49 year history.

In the circumstances, is he relieved that the last Labour Government abolished the auditors' powers to surcharge errant councillors?

Reply from Councillor Stafford

A Conservative Councillor is the principal objector to the accounts. Given Councillor Neville's membership of the Audit Committee, he is aware that the District Auditor has given his Audit Opinion on the Accounts – no issues were identified – and therefore the accounts give a true and fair view of the Council's activity during financial year 2012/13.

The principal reason the audit cannot be closed is because of the objections the Conservative Councillor continues to raise. The issues raised in the objection to the accounts were discussed at the Overview and Scrutiny Committee on 14 November 2012, and dealt with exhaustively there.

As to the Public Interest Report, issued over a decade ago, it is obvious from the awards, audits, reviews and prudent financial planning undertaken across the Council in Finance and other departments that those bad old days are well behind us. This Administration made that clear in its manifesto and from the outset when we

were elected. That continues to be the case, and will be for the future.

Question 30 from Councillor East to Councillor Charalambous, Cabinet Member for Culture, Leisure, Youth and Localism

At the Council Meeting of April 2011 and being aware of the work being undertaken by a firm of consultants to audit local leisure and culture provision, I asked Councillor Stafford the following question to which he gave the following answer.

*"What does Councillor Stafford think of the strong opposition to his suggestion that there may be "...too many libraries in Enfield..." and could he explain how much support is there for his view within the rest of the Labour administration?
Further, residents in Enfield Lock have expressed dismay at the suggestion that they may lose one or both of their libraries; to what degree do Councillor Uzoanya and the other Enfield Lock Councillors support the Administration's strategy on libraries, and will they side with Enfield Lock residents in a campaign to keep the libraries at Ordnance Road and Enfield Island Village open, or will they be muzzled?"*

Reply from Councillor Stafford

"There are no immediate plans to close any of the libraries in the Borough. However, the Library & Museum Service is currently undergoing a Leaner Review to explore and develop strategic options for the future delivery of the service. As yet these options are not formulated and no decisions have been made, but once we are in a position to do so these will be presented through the Cabinet process in the usual way.

I did state at Area Forums that there was a possibility of closing 3 libraries. I do not deny this. Closure is an option that the Leaner Review will consider. As yet no decisions have been made. When the final recommendations are formulated they will be extensively consulted upon.

Consideration will obviously be given to the views of local Councillors and local residents."

The report from Knight, Kavanagh and Page was produced the following month in May 2011.

Specific Business recommendations in relation to libraries are as follows:

'There should not be a presumption for retention of all libraries'...'The need to retain all (as opposed to a smaller number of) libraries be reviewed in light of their individual strategic roles, community value, economic costs and, difficult as it may be, that options to improve the overall service through judicious pruning rather than cuts across the board be considered'.

Furthermore there was a recommendation that only a fraction of the savings be reinvested in the library service.

I was wondering whether Councillor Charalambous has been given long enough to consider the recommendations in this report and when proposals will be put forward in relation to library provision in Enfield so that the views of local councillors and local residents can be heard.

Reply from Councillor Charalambous

The information provided within the Knight Kavanagh & Page report was used to inform the consultation exercise undertaken as part of the development of the 2012 Library Strategy and also feed into the Leaner review of the service. As you will be aware, the Library strategy agreed by this administration was that there was to be no closure of libraries during this administration. In fact this administration has opened an additional library unlike your last administration which closed one.

Can I also draw Council's attention to the fact that during this administration we are spending or have agreed to spend £10.85m (£6.4m on Joint Service Centre/Ordinance Road Library and £4.45m on Palmers Green Library) in the improvements to our Library Service.

Any future changes to the Library Strategy will be for the new administration in May.

Question 31 from Councillor Lavender to Councillor Taylor, Leader of the Council

I refer to Question 26 from Councillor Cranfield to Councillor Taylor, Leader of the Council answered by him at the Council Meeting dated 7 November 2012

Can the Leader of the Council define the word 'Pleb' and can he give us an example of when this word would be used in Enfield?

Reply from Councillor Taylor

I suspect the Councillor is referring, by inference, to Andrew Mitchell MP, the privately educated, Cambridge educated, investment banker. As you know, he resigned for allegedly using this word to denigrate the police in Downing Street.

The word dates back to Ancient Rome and was a term for the non-aristocrats who could not stand for high office. Today it is value laden, derogatory and suggests inferiority.

Despite a splash of eau de Cologne, the stench of Tory elitism has resurfaced vividly with this term.

I would advise Members opposite to refrain from referring to Council staff or residents with this term. My side requires no such advice.

Your answer to this question was given at a time when Andrew Mitchell unequivocally denied using the term 'pleb', yet you still saw it fit to have a planted question put at Council and provide a gratuitously offensive answer.

On 16 December 2013, PC Keith Wallis appeared at Westminster Magistrates' Court charged with misconduct in a public office, accused of falsely claiming to have

witnessed the incident. On 10 January 2014, PC Keith Wallis admitted misconduct and says he will offer his resignation from the force.

Now that the Leader of the Council is better apprised of the facts rather than armed with pure prejudice, will he take this opportunity to supplement or correct his answer and apologise.

Furthermore, on reflection and having re-read his first answer has he learnt any lessons from this incident on how to better to conduct himself in public office?

Reply from Councillor Taylor

I thank Councillor Lavender for his question. The last thing I would want to be is unreasonable in word or print - so to remind him of what happened:

19 September 2012 – Andrew Mitchell MP, then Chief Whip, had a row with police officers who would not let him cycle through Downing Street.

20 September 2012 – a national newspaper reported he swore at officers and called them ‘plebs’ who should ‘learn their place’.

21 September 2012 – While denying the use of the word ‘plebs’, Andrew Mitchell apologised for being disrespectful to the officers.

25 September 2012 – A police log confirmed the reports of his action.

17 October 2012 – David Cameron told the House of Commons that what Mr Mitchell ‘did and said’ was wrong.

19 October 2012 – Mr Mitchell resigned, accepting he had used bad language towards the police officers.

16 December 2012 – Keith Wallis, PC, pleaded guilty to misconduct when he claimed to have witnessed the ‘Plebgate’ incident. David Cameron said ‘It is completely unacceptable for a serving police officer to falsify an account of any incident’. That is obviously right and I agree with the Prime Minister.

When I answered the Question put to me in November 2012, I based my response on the available evidence, and I refer you to the statement of David Cameron on 17 October 2012 in the House of Commons.

If, as widely reported at the time, the term ‘pleb’ was not used but bad language was used, directed at the police officers on duty; then, at the very least, as David Cameron rightly said, this was wrong. A senior Government representative needs to be mindful of their duty to foster justifiable respect for the police.

My reply at that time clearly states that he allegedly used the term ‘pleb’. I remain of the view that this is not an acceptable word to use. It is for David Cameron, not me, to decide whether his decision to accept Mr Mitchell’s resignation was hasty and ill-advised or proportionate.

Question 32 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Will he tell the council, since May 2010, how many individual road humps/tables have been proposed and how many have actually been installed following consultation?

What were the total costs of designing and consulting? (Please show separately):

- a. The schemes incorporating the road humps/ tables, as consulted upon.
- b. The schemes as implemented, if different.

What was the total cost of implementing all such schemes, excluding the design and consultation costs referred to above?

Reply from Councillor Bond

The information requested by Councillor Laban is not readily available and would take several days of officer time to produce, particularly as they would have to manually review every one of the schemes implemented since May 2010 to compare the plans proposed at the consultation stage with the final designs. If Councillor Laban really feels that the significant cost that will be incurred in answering her question is justified, I will ask officers to provide her with an answer as soon as possible.

Question 33 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

In his reply to question 17 at the council of 27 November 2013 he stated that the current recorded cost for sick pay for 2012/3 was in excess of £345,000 in respect of the average 8.43 days average per employee. Does he believe that the council can afford this level of sick pay and what steps is he taking to ensure that sickness absence is better managed and reduced to private sector levels?

Can he confirm that the £345,000 only relates to the cost of sick pay and therefore does not include the cost of agency staff covering such sicknesses where such is necessary?

Reply from Councillor Stafford

The average number of sick days per full time equivalent is now down to 7.9 under Labour from 10.3 under the Conservatives in 2010. This reduction has been achieved through the introduction of a more robust sickness absence management process which includes the introduction of a telephone referral system, earlier intervention, mandatory occupational health referrals of long term sickness cases and targeting the worst cases.

The average of 7.9 compares favourably against Local Government figures of 9 (CIPD 2013 survey).

I can confirm that the figure of £345,000 represents the costs of agency staff covering the sickness absence. Is Councillor Neville proposing that this figure should be reduced by the Council stopping the sick pay of staff suffering long term illness such as cancer and strokes and will this be part of the Conservative manifesto?

Question 34 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

He will be aware that I have asked several questions about the cost of employment agency workers as compared with those for directly employed staff – which for various reasons he has been unable to answer. Perhaps I could put the question in a slightly different way which might hopefully elicit an answer. Since May 2010 how much has the council spent on agency employees and separately how much has it spent on interim management posts?

Reply from Councillor Stafford

The average yearly agency spend since 2010 has been £14 million. To achieve savings, agency staff and interim management posts are now engaged under one contract. The information we hold does not provide an interim management category. As such, it is not possible to provide accurate separate data on how much has been spent on interim management posts.

Question 35 from Councillor Neville to Councillor Stafford, Cabinet Member for Finance and Property

In his reply to my question 22 of the meeting of 27 November 2013 he said it was not possible to assess “how many of the identified redundant posts have been directly attributable to the Leaner Programme”. In his answers to my recent questions on redundancies arising from the Leaner Programme he has maintained that it is not possible to identify how many posts have been declared redundant as a result of this process. I am sure he will agree that the acronym “Leaner” is well understood to mean a smaller operation and as such it is surprising that he is unable to identify the number of redundancies which have occurred as a result of the leaner process, the more so because we know from an earlier answer that over £1.5m has been spent by the administration since 2010 on consultants for leaner. Can he now answer the question how many posts have been made redundant since 2010 under Leaner and if it assists him in answering that question how many have been made redundant for other reasons unconnected with Leaner?

Reply from Councillor Stafford

It is not possible to distinguish between redundancies that have been implemented as a direct consequence of the Leaner agenda and those that have not. However, I can confirm that 155 staff have been made redundant since 2010. This figure does not reflect the true number of deleted posts as 97 staff who would have been made redundant have been redeployed, 21 staff have been granted flexible retirement and a significant number of posts have been deleted as the result of natural wastage. The combination of these measures has enabled the Council to avoid excessive

redundancy costs. Is Councillor Neville suggesting that the Council should be making more staff redundant thereby incurring additional redundancy costs?

Question 36 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Can the Cabinet Member for Environment, in his capacity as one of Enfield's representatives on the North London Waste Authority (NLWA), inform the chamber how much it has cost the tax payer to fund the latest NLWA cinema advertisement now showing at Cineworld Enfield?

Reply from Councillor Bond

The cinema advert ran in six north London multiplex cinemas for two weeks from 14 to 26 December, and was shown at a variety of films, including The Hobbit, Anchorman 2, Gravity 3D, Hunger Games, Saving Mr Banks, Mandela and many other children's and Christmas films.

The advert was shown 1,472 times across six cinemas in north London, at a cost of £13.12 per film showing or an average total cost of £3,218.77 per cinema.

Each showing in North London attracted an average of 85 people, which means the average cost was 15p per person per viewing.

Question 37 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Blue Badge holders have contacted me about the new parking system at Palace Gardens Car Park. They have complained that if they find the lower floor full up they cannot access the other floors without exiting the car park entirely, going round the one way system and entering the car park again. Please could the Cabinet Member explain what his department is doing to solve this problem?

Reply from Councillor Bond

It's good to hear that our car parks are full. What a shame your Group closed and sold others off within Enfield Town, thus restricting parking opportunities.

The bays were placed on the lower floor at Palace Gardens to make them as accessible as possible for Blue Badge holders to use the facilities Palace Gardens has to offer. However, we understand the difficulties that may occur if all the spaces are used and we are exploring options to try to negate motorists having to re-enter the car park.

Question 38 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Please could the Cabinet Member inform the chamber of the suggested amendments to Enfield bus routes that will be submitted to Transport for London?

Reply from Councillor Bond

As Councillor Laban is aware, the Enfield Transport User Group (ETUG) have undertaken an excellent piece of work looking at existing bus services in the borough and have suggested making some 28 changes to the network. I wrote to Isabel Dedring before Christmas seeking her support to continue working with Transport for London (TfL) on the Enfield Bus Service Review and am pleased to report that officers have already had a positive meeting with TfL to discuss how to take the project forward. Progress on this important initiative will continue to be monitored by both the ETUG and Public Transport Consultative Group.

Question 39 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Please could the Cabinet Member explain why he has proposed stopping the Bank Holiday Monday Domestic Refuse collections rather than negotiating to keep the service as it is?

Reply from Councillor Bond

At a time of unprecedented Government cuts, to save £85,000 of taxpayers money, without any changes to weekly refuse collection.

Question 40 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Could the Cabinet Member explain the total cost to the Council of introducing the spitting ban and the budgeted annual costs of implement the spitting ban?

What evidence does the council have of any cessation of this activity and is he aware of the number of cautions or fines issued?

Reply from Councillor Bond

The enforcement of this has been incorporated into existing enforcement contracts without charge.

As the ban was only introduced in December there has been limited enforcement, although we have 1 case for prosecution (not a footballer) and a further 4 being investigated.

Question 41 from Councillor Laban to Councillor Bond, Cabinet Member for Environment

Please could the Cabinet Member

- a. Update the chamber on the situation regarding the vandalism of the New River pump system?

- b. Confirm whether or not the Police were contacted regarding the fact that the New River water pump system was deliberately undone just before Christmas?

Reply from Councillor Bond

The pipe connecting the New River back-up pump to the New River Loop has been damaged though it is not clear what caused this. The pump has been switched off temporarily, meanwhile Highway Services are arranging for the pipe work to be repaired. It is anticipated that this work will be completed within the next two weeks.

The police were not contacted.

Question 42 from Councillor Laban to Councillor Goddard, Cabinet Member for Business and Regeneration

Please could the Cabinet Member explain what activities and work to date has taken place in relation to the Market Gardening Project?

Reply from Councillor Goddard

There are two strands that have developed over the last 12 months, the productive landscapes strand that is a sub-regional development, and the Market Gardening Project, now called Garden Enfield, which achieved the following outcomes with the Mayor's Regeneration Funding over the current financial year.

Forty Hall Farm - Growing Project

The Forty Hall Farm growing project commenced in early 2013, with the engagement of the Farm Manager in January 2013. A Horticultural Grower was in post by April 2013, and Horticultural Apprenticeship commenced in June 2013, thereby creating 1.5 jobs and one full time apprenticeship.

These resources enable the growing project to get fully underway in early spring, with the installation of two professional poly tunnels in April, and three acres of land in production by August 2013.

A packing area for the box scheme was set up in the old dairy and a cold store provided for storage of vegetables. Also, the provision of rainwater harvesting equipment means rainwater can be reused and conserve on water usage. Volunteer numbers have reached the project target of 50 people to date, with another 15 months of the project to run. Anticipated volunteer numbers are expected to reach a minimum of 100 with the introduction of the community growing schemes.

The launch of the organic vegetable box scheme, Enfield Veg Co, launched in November 2013 with 40 customers and is increasing week on week. The ultimate goal to expand the customer base to 120 customers by March 2015 is well underway. The scheme provides locally grown, freshly harvested produce at three drop off points around the borough, incurring minimal food miles in the process.

Work is progressing to establish a Community Interest Company as a social enterprise, to deliver and manage the box scheme. The framework for establishing this small business was discussed at Council on the 27 November 2013, and the Council adopted under report Constitution Changes: Local Authorities (Functions and Responsibilities) Order 2000 – Establishment of companies, Section 3.3.35(a) *“At the current time, the Assistant Directors of Corporate Governance & Legal are aware of the following projects for which approval will need to be sought, as part of their delivery mechanisms, to the establishment of a company:*

- (a) *Establishment of a Community Interest Company with Capel Manor College for a social enterprise vegetable box scheme as one of the milestones in the Market Garden Initiative grant agreement with the Greater London Authority (GLA).”*

The project has identified four potential new growing sites for development from January 2014 to provide opportunities across the borough, and in particular in regeneration areas, for learning and participating in community growing. The outcomes for local residents include improved skills in horticultural, social and economic, thus preparing unemployed people for re-entering the job market.

Education

The project aims to foster a passion and interest in growing, cooking and eating healthy food at an early age, leading to healthier diets and lifestyles for young people.

The project supports a now schools initiative, Grow Your Own, and has provided equipment and training for ten primary schools in this year alone, and has involved 270 school children to date.

There is a dedicated project support officer coordinating all work with primary schools and head teachers to develop food growing as a core part of the curriculum, with very high levels of interest from a further ten primary and five secondary schools for the coming financial year.

Skills Development

A key objective of the project is getting people into work, and by improving the skills base and raising awareness and interest in business opportunities connected to food. These options include food processing, logistics, teaching and marketing. Capel Manor College is a key partner in the delivery of the project, both through the work at Forty Hall Farm and through the development of horticultural training with an emphasis on food production. The project benefits greatly from the existing programmes and established reputation of the college.

Students are now able to utilise the growing project at the farm for hands on experience and training from the qualified grower and apprentice. The expertise and knowledge gained on the farm will also be transferred to the new community growing projects.

Large Scale Growing

The development of the major commercial scheme is progressing with a site sift to find a suitable location and to complete the final business plan.

Marketing

A Garden Enfield Food Event is to be held at City Hall on 5 March 2014 to showcase the project and promote the objectives and outcomes of the project to the wider food growing community across London.

Food Sector Development

The second strand which incorporates the Enfield work particularly the large scale growing, has been the formation of a food sector group comprising LBE, Broxbourne, Epping, Uttlesford, Herts and Essex representation, private sector growers and Lee Valley Regional Park and recently London Borough of Waltham Forest. This is one of the key sectors identified by the LSCC (London Stansted Cambridge Consortium). Various work groups and activities are being progressed with the objective of revitalising the food sector, identifying planning issues, employment development, energy and marketing.

Section 2 Questions to Scrutiny Chairs

Question 43 from Councillor R. Hayward to Councillor Sitkin, Chairman of Sustainability and the Living Environment Scrutiny Panel

On 4 December 2012 the Government passed the Electricity and Gas (Energy Companies Obligation) Order 2012 (the 'Order'). The purpose of this Order was not only to establish targets in relation to carbon emissions but also to reduce home heating costs for low income families. The Order confirms that the obligations set in the target must be achieved by March 2015. Hence at the date of this question, we are pretty much half-way through and nothing has been done.

Notwithstanding the off-repeated cry from the Labour Party about how green it is, how much it cares for those on low incomes and the pressures in household incomes, and how it wants to support local businesses, it was only on 24 December that the Council woke up to this initiative. Even then it has decided to roll-out this programme only in Edmonton, totally ignoring the needs of low income households, including those in your own ward.

Will Councillor Sitkin please confirm why no action was taken by him in his capacity as Scrutiny Chair to ensure that action was taken sooner and also confirm what action he took to scrutinise this decision to ensure that all residents to whom this initiative should have been directed, received the benefit, and not just the chosen few in certain areas of Edmonton.

Reply from Councillor Sitkin

Under this Labour Administration, Enfield is becoming a leading Council for sustainability in general, and for energy retrofitting in particular. Following close collaboration between our Regeneration, Housing and Environment teams and in line with our Enfield 2020 vision, the Council has been maximising all Energy Companies Obligation (ECO) opportunities within our borough.

In March 2013, for instance, the Council successfully leveraged up to £10 million for an ECO Phase 1 social housing project forecast to save residents up to £400 per annum on their fuel bills. On the back of this success, in autumn 2013 the Council ran a mini-competition for ECO Phase 2 targeting six more tower blocks. A contract was awarded in November 2013. Unfortunately, the Conservative Government's reprehensible decision to lower ECO targets means that the 'Big 6' energy companies may start to review their obligations in this area. If Councillor Heyward wants to scrutinise ECO, he should start an enquiry within his Party as to why his fellow Tories are so keen to betray the UK's national interest by undermining the energy efficiency work undertaken by progressive authorities such as Enfield under this Labour Administration.

Otherwise, the Council has also developed a highly innovative Private-Sector ECO Homes project building upon small-scale energy improvements delivered borough-wide through the RENEW project. Edmonton offers the greatest opportunity to deliver initial improvements at scale and with pace but if this pilot succeeds and ECO funding remains available, the intention is to roll our scheme out to other parts of Enfield. In the meantime, ECO remains available to all residents who meet the eligibility criteria. This information is provided on the Council's website.

On top of this - and in line with the ethos embodied in our Regeneration, New Directions and Enfield 2020 efforts - we are leveraging ECO to support local businesses and create new jobs, working in partnership with local colleges to train local unemployed and providing active support to 20 Enfield businesses. Eight have now gained PAS 2030 accreditation enabling them to join the green business supply chains we are building up in the borough.

With retrofitting, ECO and Green Deal having all been covered by scrutiny on multiple occasions, Councillor Hayward has clearly not been paying attention to the items scrutinised by the panel of which he is member. Given the success of our current programme, no one - including the panel's vice chair, his Deputy Leader - has seen fit to over-burden officers with additional scrutiny in this area. Imitation is the highest form of flattery and we are glad to see at least one Enfield Conservative supporting successful Labour policies.

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