



# Northumberland County Council

**Your ref:**

**Our ref:**

**Enquiries to:** Karon Hadfield

**Email:** [karon.hadfield@northumberland.gov.uk](mailto:karon.hadfield@northumberland.gov.uk)

**Tel direct:**

**Date:** 9 January 2024

Dear Sir or Madam,

Your attendance is requested at a meeting of the **COUNTY COUNCIL** to be held in **COUNCIL CHAMBER - COUNTY HALL** on **WEDNESDAY, 17 JANUARY 2024** at **2.00 PM**.

Yours faithfully

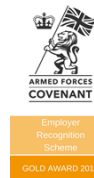
Dr Helen Paterson  
Chief Executive

To County Council members as follows:-

**C Ball, D Bawn, J Beynon, L Bowman, S Bridgett, D Carr, E Cartie, G Castle, T Cessford, E Chicken, T Clark, A Dale, W Daley, L Darwin, S Dickinson, R Dodd, C Dunbar, L Dunn, P Ezhilchelvan, S Fairless-Aitken, D Ferguson, B Flux (Chair), J Foster, B Gallacher, L Grimshaw, C Hardy, G Hill, C Horncastle, C Humphrey, I Hunter, JI Hutchinson, P Jackson, V Jones, D Kennedy, J Lang, S Lee, M Mather, N Morphet, M Murphy, K Nisbet, N Oliver, K Parry, W Pattison, W Ploszaj, M Purvis, J Reid, G Renner-Thompson, M Richardson, J Riddle, M Robinson, G Sanderson, A Scott, C Seymour, A Sharp, E Simpson, G Stewart, M Swinbank, M Swinburn, C Taylor, T Thorne, D Towns, H Waddell, A Wallace, A Watson, J Watson, R Wearmouth and R Wilczek**



**Dr Helen Paterson, Chief Executive**  
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## AGENDA

### PART I

It is expected that the matters included in this part of the agenda will be dealt with in public.

#### 1. APOLOGIES FOR ABSENCE

#### 2. MINUTES

(Pages 1  
- 24)

Minutes of the meeting of County Council held on Wednesday 1 November 2023, as circulated, to be confirmed as a true record (see pages 13-36).

#### 3. DISCLOSURES OF MEMBERS INTERESTS

Unless already entered in the Council's Register of Members' interests, members are required where a matter arises at a meeting;

a. Which directly relates to Disclosable Pecuniary Interest ('DPI') as set out in Appendix B, Table 1 of the Code of Conduct, to disclose the interest, not participate in any discussion or vote and not to remain in room. Where members have a DPI or if the matter concerns an executive function and is being considered by a Cabinet Member with a DPI they must notify the Monitoring Officer and arrange for somebody else to deal with the matter.

b. Which directly relates to the financial interest or well being of a Other Registrable Interest as set out in Appendix B, Table 2 of the Code of Conduct to disclose the interest and only speak on the matter if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain the room.

c. Which directly relates to their financial interest or well-being (and is not DPI) or the financial well being of a relative or close associate, to declare the interest and members may only speak on the matter if members of the public are also allowed to speak. Otherwise, the member must not take part in discussion or vote on the matter and must leave the room.

d. Which affects the financial well-being of the member, a relative or close associate or a body included under the Other Registrable Interests column in Table 2, to disclose the interest and apply the test set out at paragraph 9 of Appendix B before deciding whether they may remain in the meeting.

e. Where Members have or a Cabinet Member has an Other Registerable Interest or Non Registerable Interest in a matter being considered in exercise of their executive function, they must notify the Monitoring Officer and arrange for somebody else to deal with it.

NB Any member needing clarification must contact monitoringofficer@northumberland.gov.uk. Members are referred to the Code of Conduct which contains the matters above in full. Please refer to the guidance on disclosures at the rear of this agenda letter.

**4. ANNOUNCEMENTS BY THE CHAIR, LEADER, MEMBERS OF THE CABINET, CHAIR OF AN OVERVIEW AND SCRUTINY COMMITTEE OR HEAD OF PAID SERVICE**

**5. PUBLIC QUESTIONS**

To receive questions provided on notice from and to provide answers to the public in accordance with the Council's Procedure Rules.

**6. MEMBER QUESTIONS**

To receive questions provided on notice from and to provide answers to Members of the Council in accordance with the Council's Procedure Rules.

**7. REPORT OF THE CABINET MEMBER FOR LOOKING AFTER OUR COMMUNITIES** (Pages 25 - 36)

**Annual Portfolio Report – Looking after our Communities**

This is the Annual Report from the Cabinet Member for Looking after our Communities. The report contains issues that set the context for delivery of the Portfolio. It highlights achievements over the past year and, outlines the areas of focus for the coming year (see pages 37-48).

**8. COMMUNITIES AND PLACE OVERVIEW AND SCRUTINY COMMITTEE - INTERIM REPORT TO COUNCIL** (Pages 37 - 42)

To receive a report from the Chair of the Communities and Place OSC (see pages 49-54).

**9. REPORT OF THE LEADER** (Pages 43 - 56)

**Introduction of Corporate Safeguarding Policy**

This report outlines the recommendation to introduce a Corporate Safeguarding policy (appendix 1). This policy will be established in addition to the existing policies and procedures operated within the Adults, Ageing and Wellbeing, and the Children, Young People and Education Directorates.

The policy will apply to all officers, volunteers, contractors and Councillors and makes it clear how the Council undertakes its legal commitments in regard to safeguarding to children and adults.

The policy is intended to support, strengthen and provide clarity to the wider organisation in relation to the process for reporting concerns, the support available to everyone and the responsibilities of new Key Officers ('Designated Managers') and Councillor roles across the wider Council

(see pages 55-68).

- 10. REPORT OF THE LEADER** (Pages 57 - 62)
- Corporate Parenting**
- This report is to update and engage members on progress with implementing the Council's statutory responsibilities for corporate parenting of our cared for and care experienced children and young people (see pages 69-74).
- 11. REPORT OF THE CABINET MEMBER FOR LOOKING AFTER OUR COMMUNITIES** (Pages 63 - 66)
- Northumberland Fire and Rescue Service Inspection Report**
- His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) has undertaken a third full inspection of Northumberland Fire and Rescue Service (NFRS). The inspection commenced on 29 May 2023, with initial feedback (hot debrief) provided on 9 August 2023. The final report was received by the Service on 27 November 2023 and published on HMICFRS website on 29 November 2023. This report provides an Executive Summary (see pages 75-78).
- 12. REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR CORPORATE SERVICES** (Pages 67 - 228)
- Council Tax Support Scheme 2024-25**
- The purpose of this report is to seek approval for the local Council Tax Support Scheme for 2024-25 to continue to provide support at a maximum level of 92% of council tax liability (see pages 79-84).
- 13. REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR CORPORATE RESOURCES** (Pages 229 - 242)
- Community Governance Review Stamfordham Parish**
- To consider the outcome of a Community Governance Review in the County (see pages 85-98).
- 14. REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR CORPORATE RESOURCES** (Pages 243 - 246)
- Independent Chair of Standards Committee**
- To update members on the progress of the recruitment process for a new independent Chair of Standards Committee and to ask for the current Chair to be appointed for a period of one year to enable the recruitment process to be completed ( see pages 99-102).
- 15. MOTION**

## **Motion No. 1**

In accordance with Council Procedure Rule No.1.2.11, Councillor Morphet to move the following motion, received by Democratic Services on 3 January 2024:-

### **To Encourage the Tyne & Wear Pension Fund to Divest From Fossil Fuels**

*The Local Government Pension Scheme is a national pension scheme for those working in local government or for other participating employers. It's administered in England and Wales by 86 local pension funds, one of which is the Tyne & Wear Pension Fund (TWPF) -with which Northumberland Pension Fund merged in 2020. The TWPF is administered by South Tyneside Council. The TWPF Pensions Committee is responsible for the control of the pension fund and meets quarterly. It has eight members from South Tyneside Council, one each from North Tyneside Council, Newcastle City Council, Gateshead Council, City of Sunderland Council and Northumberland County Council, three from trades unions and three from local employers.*

#### **This Council notes that:**

- *Climate change poses an existential threat to human civilisation, and the importance of limiting warming to 1.5 degrees Celsius over pre-industrial levels is widely accepted.*
- *Northumberland County Council declared a climate emergency in 2019, and has set targets for both the council and the county to be carbon neutral by 2030.*
- *The County Council's Climate Change Action Plan 2021-23 estimates that hitting these targets will generate 11,000 good green jobs.*
- *The County Council's Corporate Plan 2023-26 states that "Everything we now do takes account of the impact it will have on our planet" and goes on to say that "As one of the largest employers in the county, we can become a leading example.. on carbon neutral approaches" and that we can "Provide practical examples of how to become a net zero employer which can be picked up.. by other employers in the county".*
- *The burning of fossil fuels makes by far the largest contribution to climate change, accounting for over 75% of greenhouse gas emissions.*
- *Fossil fuel companies have intentionally delayed action on climate change in order to continue "business as usual".*
- *The TWPF currently has at least £461m invested in fossil fuels. This is 5.1% of its total portfolio and well above average for UK local government pension funds.*

- *The TWPF 2022-23 Annual Report says that the County Council paid £32m in Employer Contributions, effectively investing £1.6m of tax payers' money in fossil fuels in just one year.*
- *Investing in fossil fuels is incompatible with the County Council's climate emergency declaration and carbon neutral pledges.*
- *In 2015, the Governor of the Bank of England said that the action needed to keep to even 2 degrees Celsius of warming would "render the vast majority of existing fossil fuel reserves stranded" and "literally unburnable". Fossil fuels are becoming an increasingly risky investment.*
- *It's the TWPF's fiduciary duty to protect its beneficiaries from the effects of climate change by avoiding a) investments that are becoming high risk as a result of climate change and b) investments that exacerbate climate change. Failure to do so will cause a worsening of climate change and an increased investment risk.*
- *The TWPF could invest the County Council's Employer Contributions in local initiatives that benefit both people and planet.*
- *Six pension funds in the Local Government Pension Scheme have already committed to fossil fuel divestment - most recently Wiltshire Pension Fund, which is administered by Wiltshire Council and states that "We do not see a long term place for fossil fuel investments in our portfolios and will work towards being fully divested from these companies by 2030".*
- *Dozens of UK local authorities (including Manchester City Council and Cambridgeshire County Council) have passed motions encouraging their local government pension funds to divest from fossil fuels.*
- *In 2017, UNISON passed a motion to start a campaign for Local Government Pension Scheme fossil fuel divestment.*
- *Gateshead Council has recently passed a motion asking the TWPF to review their investments in fossil fuels and invest in companies that will minimise climate risk.*
- *North Tyneside Council has recently passed a motion urging the TWPF to explore the possibility of shortening the timeframe for total divestment from fossil fuels.*

***This Council resolves to:***

- *Ask its Pensions Committee representative to encourage the TWPF to divest from fossil fuels completely by 2030.*
- *Ask its Pensions Committee representative to encourage the TWPF to engage more closely with its beneficiaries on climate change.*

- *Ask its Pensions Committee representative to provide an annual report on their involvement with the TWPF to the most appropriate County Council committee.*

**IF YOU HAVE AN INTEREST AT THIS MEETING, PLEASE:**

- Declare it and give details of its nature before the matter is discussed or as soon as it becomes apparent to you.
- Complete this sheet and pass it to the Democratic Services Officer.

<b>Name:</b>		<b>Date of meeting:</b>	
<b>Meeting:</b>			
<b>Item to which your interest relates:</b>			
<b>Nature of Interest i.e. either disclosable pecuniary interest (as defined by Table 1 of Appendix B to the Code of Conduct, Other Registerable Interest or Non-Registerable Interest (as defined by Appendix B to Code of Conduct) (please give details):</b>			
<b>Are you intending to withdraw from the meeting?</b>		Yes - <input type="checkbox"/>	No - <input type="checkbox"/>



## Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well- being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

# Agenda Item 2

## NORTHUMBERLAND COUNTY COUNCIL

At a meeting of the **Northumberland County Council** held on Wednesday 1 November 2023 at County Hall, Morpeth at 2.00 pm.

### PRESENT

Councillor B. Flux (Chairman in the Chair)

### MEMBERS

Ball, C.	Lee, S.
Beynon, J.	Mather, M.
Bowman, L.	Morphet, N.
Bridgett, S.	Murphy, M.
Carr, D.	Nisbet, K.
Cartie, E.	Parry, K.
Castle, G.	Ploszaj, W.F.
Cessford, T.	Purvis, M.
Chicken, E.	Reid, J.
Clark, T.	Renner-Thompson, G.
Dale, P.A.M.	Richardson, M.
Daley, W.	Riddle, J.R.
Darwin, L.	Robinson, M.
Dickinson, S.	Sanderson, H.G.H.
Dodd, R.	Scott, A.
Dunn, E.	Seymour, C.
Ferguson, D.	Sharp, A.
Foster, J.	Simpson, E.
Gallacher, B.	Swinbank, M.
Grimshaw, L.	Swinburn, M.
Hardy, C.R.	Taylor, C.A.
Hill, G.	Thorne, T.N.
Horncastle, C.	Towns, D.
Humphrey, C.	Wallace, A.
Hunter, I.E.	Watson, A.
Hutchinson, J.I.	Watson, J.
Jones, V.	Wearmouth, R.W.
Kennedy, D.	Wilczek, R.
Lang, J.A.	

### OFFICERS

Bradley, N.	Executive Director – Adults, Ageing and Wellbeing
Gerrard, S.	Director of Law and Corporate Governance (MO)
Hunter, P.	Director of Strategy and Communications
Jones, P.	Director of Environment and Transport

Kingham, A.	Executive Director – Children and Young People
Little, L.	Senior Democratic Services Officer
Masson, N.	Deputy Monitoring Officer
McNeil, J.	Deputy Chief Fire Officer
Murfin, R. (Virtual)	Director of Housing & Planning
Paterson, Dr H.	Chief Executive
Reiter, G.	Director of Children, Young People and Families
Willis, J.	Executive Director for Resources & Transformation (S151)

### **31. CHAIRMAN'S OPENING REMARKS**

The Chair advised that item 13 on the agenda would be moved to immediately following item 11 with item 12 to be taken after item 13.

Those Members who had provided helpful feedback following the 10 minute time limit which had been suggested at the last Council meeting were thanked. The Chair advised that the Chair must balance the demands of Members wanting to speak against the need to manage the good and timely conduct of business of the Council. On reflection and following feedback from colleagues a more flexible approach would be adopted and the support of all Members was requested in ensuring arrangements worked in a way which facilitated appropriate debate and challenge whilst ensuring that business was conducted in a business-like and constructive fashion. How this would be managed during this meeting was set out as follows:

- Members would be called in order while trying to reflect political balance, with preference to those who had not previously spoken.
- Participants were asked to avoid repetitive questions and were encouraged to make fresh points so as to ensure that everyone who wanted to speak was able to do so.
- Members were asked to keep to the point in both questions and answers and as a guideline for all contributors to keep to two minutes so far as possible.
- Contributors would be brought back to the point should they stray from the issue and he would ensure that questions did not go on so long that they ceased to shed further light on the matter.

The Director of Law and Corporate Governance had been requested to oversee a review with Members of the effectiveness of arrangements before the end of the municipal year.

### **32. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors D. Bawn, C. Dunbar, P.D. Ezhilchelvan, S. Fairless-Aitken, N Oliver, W Pattison and G Stewart.

### **33. MINUTES**

**RESOLVED** that the minutes of the meeting of County Council held on Wednesday, 6 September, 2023, be confirmed as a true record.

### **34. ANNOUNCEMENTS** by the Chair, Leader, Member of the Cabinet, Chair of an Overview and Scrutiny Committee or Head of Paid Service.

This years' Service of Remembrance was to be held at County Hall on Friday, 10th November. If any Member wished to bring a wreath to lay there would be a briefing in the restaurant at 10.30 am, and the service would commence 10.50 a.m. Refreshments would be available after the service outside of the restaurant and Members were asked to confirm attendance to Susan Taylor.

The MOD Employer Recognition Scheme Gold Award revalidation had been approved and Northumberland County Council would now hold this for a further 5 years. This represented exemplary support provided to our Armed Forces community.

An initial request for the Council to support a march which was planned for 204 Battery, Kingston Park, 101 Regiment on 27-28th January 2024. The intention was that marching troops would leave Kingston Park on Saturday 27th and arrive in Alnwick on Sunday 28th. The march would come to a halt at Alnwick Castle. The reason for this march and this route was, the 1st Battalion Tyneside Scottish marched from Newcastle to Alnwick on 29-30 Jan 1915 to begin their military training during WW1.

A Request would be made by the Royal Regiment of Fusiliers for a St Georges Day march through Ashington on 20 April 2024 which would also mark the 350th anniversary of when the Royal Regiment of Fusiliers was first formed in Northumberland.

Former County Councillor Mike Stott had sadly recently passed away. Mike represented the Blyth Valley Kitty Brewster ward from 1981 to 1985 and was Chair of the Amenities Committee during that time. Members observed a minute's silence in memory of former Councillor Stott.

The Leader advised that Cabinet the following week would be discussing Devolution and the final stage of moving to the North East Mayoral Combined Authority (NEMCA). All of the seven local authorities involved would be taking the decision making paper around the same time so that they could all proceed with this potentially important development for our region. Relationships between the Leaders of all the authorities remained cordial and respectful and this was expected to continue going forward. He looked forward to seeing whoever was chosen to be the Mayor to lead with passion with care.

### **35. PUBLIC QUESTIONS**

No public questions had been received.

## **36. MEMBER QUESTIONS**

### **Question 1 from Councillor Hill to the Leader**

Scottish Power's net profit last year was £487 million, which must bring great joy to their shareholders. Having less fun were the residents in my ward and within Councillor Hunter's ward who had recently been walking home nervously in the dark as, once again, Scottish Power were taking weeks (sometimes many months) to fix faults impacting street lighting. Do you think this was acceptable and what was this authority doing about it?

The Leader advised that investigations identified a fault with the underground electricity cable. Once the fault was identified as being with the mains supply it must be dealt with by the power company who had 20 working days to complete the repair. The repair was carried out within this timescale. The Council did everything they could to encourage private companies to think about residents when the lighting fails.

Councillor Hill asked in light of the fact that last year in Highcliffe that Scottish Power took over a year to fix a fault and that Renfrewshire Council had written to the Chief Executive of Scottish Power, quite rightly, to say that given the profits that they make, that the delays and lack of urgency were unacceptable, would the Leader write to the Chief Executive of Scottish power advising these delays and lack of urgency were unacceptable? She was aware of three or four examples of these unacceptable delays.

The Leader advised he would need to consider how many similar issues there had been and the timescales involved along with which utility companies these involved. If there was a common thread then this would be taken up with whichever utility company it was. The Council did try to work with people on good terms as much as they could, but he would look at this and if appropriate write to them.

### **Question 2 from Councillor Murphy to the Chair**

Would the Leader agree with me, that openness and accountability were critical components of a well-run Local Authority, and that, in order to achieve these a full Council meeting should not be restricted by arbitrary and artificial time constraints, which bore no relation to the importance of the issue being discussed, nor of the interests of members who wished to contribute to the debate, and effectively disenfranchise back bench councillors?

The Chair advised that he had addressed this in his introductory remarks at the beginning of the meeting and work would continue to make this a good Council and make meetings productive and he hoped that the issue was now resolved.

### **Question 3 from Councillor Darwin to Councillor Jones**

It was reported to members earlier this year that there had been a steep rise in Domestic Violence. Did Northumberland Adult social care work closely with Northumbria Police when it came to tackling Domestic Violence and issues of

safeguarding? Also, what steps were put in place, if any, to ensure cases of Domestic Violence which were reported to Northumbria Police were also reported to Northumberland Adult social care to ensure Northumberland County Council could best support victims of Domestic Violence in such uncertain, worrying, and devastating times?

Councillor Jones thanked Councillor Darwin for raising such an important matter. All incidents of Domestic Violence were submitted by the police as an “Adult Concern Notification” into a team based in Foundry House, Bedlington. The team was referred to as the “MASH” and MASH stands for multi-agency safeguarding hub. The team was sub divided into two parts and if children were involved the concern would go to the children’s MASH and if no children were involved it would go to the adult MASH. Northumbria Police were a key partner of the MASH and were physically located in the building in Bedlington along with the Council’s staff. An Independent Domestic Violence Advisor also works within the MASH team and could pick up incidents of real concern and discuss referrals to seek refuge quickly. Northumbria Police were also core members of the Northumberland Children and Adults Safeguarding Partnership Board which reviews occurrences and patterns in domestic violence from a more strategic level.

Councillor Darwin stated that he had been a victim of domestic violence earlier the previous year so would like Members to know more about this issue and know that it could affect anyone at any time. He asked if he could meet with the head of Social Care or those who were best placed to help with this matter going forward to make positive changes for residents of Northumberland and improve, where possible, information shared with the police and police services. He had an ongoing investigation with Northumbria Police where a complaint had been raised on his behalf on the handling of his case and he would like to meet with Members to discuss this more.

Councillor Jones advised that this was Councillor Pattison’s portfolio so that request would be passed to her. She would advise that he visit the one call centre at Bedlington and would ask that Councillor Pattison to arrange this.

#### **Question 4 from Councillor Hunter to the Leader**

I have been contacted by a few residents asking about the 50+ question survey they have recently received in the post from Lake Market Research from Kent on behalf of Northumberland County Council. The residents who have contacted me have all stated they looked at the number of questions and due to the length of the survey placed the paperwork in the bin. Please can the Leader advise me:

- Who authorised the survey?
- What was the purpose of the survey?
- Would the results of the survey influence future budget expenditure?
- What was the total cost so far to Northumberland County Council for undertaking the survey?
- When will elected members receive feedback from the survey?

The Leader responded by stating that the survey had been authorised by himself, the Chief Executive and the Director of Strategy and Communications.

The purpose of the survey was to gauge public opinion and find out what were the really important things the Council did and how much these were either appreciated or not, or whether the Council did things well or not etc. It would influence spending and the budget process this year and the next year, as it was important that the Administration reflected what people told us. The cost of the survey was around £25,000, which was on the modest scale for a survey of this size, and unfortunately we did not have the resources to undertake this ourselves. The normal process was used to find a supplier to do this on our behalf and feedback would be provided to Members.

In February Members stated that the Administration did not listen and public consultation was rubbish, so the survey was commissioned and now they were being challenged on this. It was important to listen to what residents wanted and this was one method of doing this, another was going around the County to meet with residents, such as the meeting in Berwick along with the Local Area Committees. A Town and Parish Conference had been held and this had been so successful that it had been decided that it would happen twice per year going forward. All Cabinet Members had been asked to attend at least one Town or Parish Council to meet with them and understand their issues better. The Administration did spend a considerable amount of time speaking to people and that was built into every that was done. This latest survey would allow the Administration to be clear on what was needed. Berwick had had significant infrastructure spending from the Conservatives, between 2011-2017 when Labour and Liberal Democrats were in charge in Berwick the total spend was £11.7m, currently under the Conservatives it was £31.2M and once all the current work was completed it would be closer to £50m so it was hoped that the residents of Berwick liked that what they were getting.

Councillor Hunter then asked that in future, when undertaking such surveys, Members be advised so that they could explain to residents the background and encourage residents to complete the surveys.

The Leader apologised that this had not been done and confirmed that this would be in future.

#### **Question 5 from Councillor Dale to Councillor Riddle**

As a result of Climate Change we were seeing more regular storms throughout the country causing flooding and trees falling in particular. What extra resources were this Council providing for our workforce to help them with this extra workload?

Councillor Riddle advised that the Council had detailed Action Plans for responding to events that posed a significant risk to communities, such as flooding during the recent Storm Babet severe weather event and were well prepared to respond to such events with partners.

When responding to severe weather such as Storm Babet and the forthcoming Storm Ciaran, the priority was to ensure the safety and well-being of our communities and as a result staff were redeployed from other duties to focus all resources and efforts where they were most needed. Additional external support for in-house teams was also brought in when required, for example



tree surgeons to assist teams in clearing fallen or dangerous trees. We also recognised that the frequency and severity of storms was increasing and this would be taken into account in the refreshed Climate Change Action Plan 2024-26.

Councillor Dale thanked the workforce for their work over the previous weekend and she welcomed Councillor Riddle's response. Since LGR the amount of service cuts to this workforce had been quite considerable. In 2008 Tynedale had six gully cleaners and 2 road cleaners, now there was one gully cleaner and it covered an enormous area with gullies only cleaned once every two years. This had been discussed during a Parish Council/County Council meeting. What she would like to see was that the Council be proactive rather than reactive as she felt that if the gullies had been cleaned and the ditches cleared there would not have been the level of flooding and asked if a working group could be set up.

Councillor Riddle reminded Members that there were four new gully suckers purchased in 2022 with the older ones more off the road than on. These new vehicles were state of the art efficient machines and it would be investigated if these were being used to their maximum potential. In relation to the frequency of gully cleansing, there was the new fix my street app with a lot of back office data being collected so that resources could be targeted in an efficient manner.

#### **Question 6 from Councillor Nisbet to Councillor Horncastle**

Could the Council confirm how many void Council Houses exist in Blyth, how long they have been empty and how many people were currently on the Council house waiting list?

Councillor Horncastle advised that the County Council had 3,646 units in Blyth, Cowpen and Newsham. In October 2023, there were 77 void properties in Blyth. The average void period was 99 days (lower than County average of 107 days). There were also 60 voids in Blyth awaiting demolition or structural works and full refurbishment. While there was no longer a "Council House Waiting List" as such, there were currently 13,990 active Homefinder applications and just over 8,600 of these were in Band 3 which meant they had no assessed immediate housing need. The delay in reletting the 77 properties was caused by a combination of demand and increased levels of works required to bring ageing stock up to modern standards before they were let. To give context to these figures, the void figure for lettable council properties in Blyth, Cowpen and Newsham was 2.1%, the County average was 1.8% and the national average was 2.2%. The void rate for all housing stock was 2.7% in the UK.

On 14 November 2023 there was to be a Policy Conference on Affordable and Social Housing. This would be an opportunity to influence priorities and understand how Members could better support residents who might be experiencing housing problems.

Councillor Nisbet asked for the same information to be provided for Cramlington in writing. Councillor Horncastle confirmed that this would be provided.

### **Question 7 from Councillor Dickinson to the Leader**

Could the Leader confirm if the Advance Northumberland Managing Director has resigned and if so, did he find it appropriate that the Leader of the opposition or any Councillor for that matter, found out on the grape vine rather than being respectfully communicated with about the Council wholly owned company?

The Chair reminded all Members that Advance was an independent arm's length company. In the first instance it was for the Managing Director and the company to determine how best to communicate these issues. In general, in line with good practice, the Council did not disseminate more widely than was strictly necessary details of any resignation. Steps were being taken to ensure that the appropriate response to this resignation was taken by the council in conjunction with the company. This would, of course, follow the proper process.

Councillor Dickinson advised that some Members were becoming increasingly frustrated when members of staff who were involved in their casework left the authority without any notification being provided to those who had been working with them. He asked that better communication be provided in such cases so that they did not have to go through the whole case with a new person.

The Leader advised that the level of staff leaving now was miniscule as opposed to levels two years ago, however Members could always contact the Chief Executive and there were regular Group Leader meetings and that was the place to raise this type of issue. In relation to casework, if Members were not able to contact a particular member of staff, then the leadership team should be contacted.

### **Question 8 from Councillor Taylor to the Leader**

As you are aware I have voted against the budget for the last two years, and as we go into this year's budget setting period, could you confirm to the Council Tax payers of Bedlington that they would see some serious investment in their town? Personally, I am hoping that we do not just have to rely on the £3 million of Borderlands funding or take our begging bowl out for some external funding that was linked to this, and for which we have to jump through hoops as it was related to projects that we have been advised we can have, and not what we actually asked for?

The Leader responded paying tribute to her, along with Councillors Wallace, Wilczek and Robinson for being such passionate and excellent Members for Bedlington. They had raised issues and he had met with them regularly and because of that the Administration had moved forward with as much as they could. However he had to be firm about spending in Bedlington and what was actually happening, and whilst it might be disappointing, it was where they were. Cash investment was going into Gallagher Park for car parking etc. Dene Park had been visited two days ago and found that there were 12 issues which needed addressing and these were now being done. Councillor Wilczek had raised the possibility of creating more of a heritage lottery funded type

scheme there to reflect the incredibly interesting history and culture around what was there hundreds of years ago.

There was a new play zone which would improve the sports and play facilities, there was a new train station at Bedlington which cost over £20m and new walking and cycling routes around the town. There was new investment at St Benet Biscop School. Bedlington was the first of only seven towns to develop a new 'Place Plan' and would receive around £3m for this and more support might be able to be provided in addition to this if a project came along. There were fresh ideas for Gallagher Park led by Councillor Horncastle, which would include investment in a Queen Elizabeth II Memorial as well as new nature trails. New investment was also being provided at Plessey Woods to provide a climbing boulder park and improved refreshment offer. Whilst it was appreciated that the new Leisure Centre had been built in Morpeth, this was only a nine minute drive and there was a regular bus service and, with the reduction in bus fares at the current time, it was possible to travel there cheaply. In conclusion he stated that whilst they would like to do more and would be doing more, it would take time and asked that Members be patient. He advised that during previous Administrations between 2011-2017 £11.6m had been spent and since this Administration came into power from 2017 to 2023 £13.1m had been spent and along with everything else that was planned to happen this would bring the total to nearly £48m in that time. The Administration did take Bedlington seriously and he applauded the work that the Councillors had done.

Councillor Taylor thanked the Leader for the list provided, however these were not the things that residents had asked for when questioned. She would be interested to know how much NCC money was in the spending quoted. In relation to the car park at Gallagher Park herself and other Councillors had been asked to contribute from their Small Schemes for this work and she had been happy to do so. In relation to the cheap bus fares, it had been advertised everywhere that these would cease at the end of December. She stated it would be nice if the Council could look at providing transport for those who had to travel outside of Bedlington for Leisure as not everyone had a car, or could afford the bus fare and asked if subsidised travel could be provided.

The Leader advised that this could be looked at, alongside another request from a Member for residents in his area who also had to travel outside for leisure. However, if there was an hourly bus service for the fare at current levels, then it would be difficult to provide anything additional.

### **37. REPORT OF THE CABINET MEMBER FOR LOOKING AFTER OUR ENVIRONMENT**

#### **Annual Portfolio Report – Looking after our Environment**

The Annual Report from the Cabinet Member for Looking After Our Environment contained information that set out the context for delivery of the Portfolio.

Councillor Horncastle, provided an introduction to the report highlighting the achievements and examples of excellent work over the previous year, and expressed his gratitude for the hard work of officers and their expertise, without which, he would not be able to carry out his role.

Councillor Daley welcomed the report which contained many good things and asked what was to happen with the old Hexham Middle School site, and whether this could be used to provide affordable housing. Councillor Horncastle advised that a lot of work went on behind the scenes when a school closed in relation to the delisting and permissions required from Government Departments and Sport England. Special architects would soon be commissioned to develop a masterplan for the huge site which would be followed by consultations with stakeholders and then the public. It was known there was a shortage of affordable housing within the Tyne Valley and Hexham, with a number of developable sites in private ownership. However, this site was in the ownership of the Council and the Administration would do its best to ensure that as much affordable housing would be provided on that site as possible.

Councillor Wallace highlighted that the number of affordable housing units actually provided fell well short of the target number and requested clarification on the difference between the numbers in this report and those contained in the Corporate Performance report also on the agenda.

Councillor Wearmouth advised that this report contained up to date figures whilst the performance report provided figures at the end of the previous financial year in April 2023. Councillor Horncastle stated that the provision of affordable housing was very important to him and that the area in which he lived had no affordable housing. Whilst there was some affordable housing in the South East of the County, it was very difficult to provide this in more rural parts of the County due to planning restrictions within these areas. He was not happy with the figures and was doing his best to improve the numbers. He highlighted the Housing Summit which was to take place shortly advising that Housing Associations were cash rich, but site poor and officers did their best to identify sites for affordable housing. It was up to all Councillors to identify any sites in their areas and drive forward the provision of affordable housing.

Councillor Hill stated that a range of issues had been raised at the Local Area Committee in relation to the management, maintenance and future proofing of cemeteries and the provision of crematoria. She asked if there was a Cemetery Strategy or Plan, and if so when was it last refreshed or when was it due to be refreshed.

Councillor Horncastle stated he did not have the information regarding the Cemetery Strategy, but it would be provided. In relation to the provision of crematoria, he advised that the Council's Crematorium was in Blyth, however it had lost a lot of business to the new private facility at Felton and there was no financial ability to provide another Council run facility. There was also the possibility of another new private facility being provided at Arcot Hall which could further impact finances for the Council's Crematorium.

Councillor Dickinson extended the Labour Group's thanks to the staff on the ground who dealt with Councillors on day to day issues surrounding this portfolio. He highlighted that the Cemetery in Chevington was one of the highest fee paying within the County and had a severe flooding problem for which a solution had not been found and asked Councillor Horncastle to visit the Cemetery with him to look at the problem. He advised that the Labour Group were very committed to the provision of Council housing and whilst affordable housing was very high on the Administration's priorities, more was still required to be done. He asked if it would be possible that a cross party working group be set up to discuss the housing strategy where more in depth discussions could be held. The Labour Group welcomed the report but would like to see more local authority housing and inclusion on the strategy which would stretch past this Administrations term of office.

Councillor Horncastle highlighted that over the past three to four years there had been an influx of refugees from Afghanistan, Ukraine and Syria which the Authority had been pleased to welcome, however this had impacted on the availability of housing as many hundreds had been housed.

Councillor Morphet, advised that the report was welcomed along with the environmental policy statements it referred to and the ecological emergency declaration which proceeded it. The sections on flood risk management were particularly informative and relevant at the current time, however it had been noted that all talk of slowing the flow of water had been at the property level rather than the landscape level. The Cabinet Member would be encouraged to pay more attention on catchment based natural flood management in the future.

Councillor Horncastle advised that this was something that had been discussed at Cabinet and with the relevant officers and the comments would be taken on board.

Councillor Hunter referenced the review of grounds maintenance that would be undertaken and asked that any changes to the frequency of grass cutting be reported to Town and Parish Councils quickly to assist in their budget setting process which was starting now.

Councillor Horncastle advised that the same system had been in place for many years, however Town and Parish Councils expect 12 to 13 cuts per year and this was not always possible due to weather etc. He highlighted that the Council did not just have parks, but also had many large areas of green space and the Council were looking to enhance the experience of the public visiting these areas and were looking at what could be done better, not cutting the service. The Town and Parish Councils would be advised.

Councillor Cartie highlighted the number of long time derelict properties within Blyth which had been brought to the Council's attention on numerous occasions in the past as the situation was affecting the health and wellbeing of people living in the areas. The response given every time was that the matter was in the hands of solicitors or property owners and it was an ongoing circle. Whilst these were good properties they would take vast amounts of money to

put right. Why could the Council not just take them, these people did not want them, and whilst it was accepted that there was a legal process, unless someone did something the situation would just continue.

Councillor Horncastle stated he was aware as they had spoken before on this subject, but could not go into details of individual cases, however there was one property where the owner had died and nobody had taken it over, and as a result, the neighbouring property was suffering series water ingress. He asked that S Gerrard, the Director of Law and Corporate Governance look into the matter.

Councillor Swinburn was very pleased to see the Council volunteering to be a pilot for the Housing Regulations scheme and thanked the Housing Team for their work especially in relation to the prefabricated properties within his Ward. In relation to the review of the Grounds Maintenance service he was pleased that the local communities would be involved. In relation to ash die back and the amount of work which would be needed across the County, he questioned how this problem would be addressed whilst maintaining the regular maintenance for other trees.

Councillor Horncastle commented that Storm Arwen had caused major tree damage across the County to all trees. In respect of ash trees he advised that surveys had been done trees along the A69 and A68 and the problem had not been as bad as had been expected. He had talked to tree surgeons who had advised that that it depended on the amount of leaf damage as to what was required to be done, however discussions were still needed with P. Jones, Director of Environment and Transport.

Councillor Dale referenced the new Tree Management Policy, ash die back and the high number of concerns about trees which had been reported through the fix my street app and advised that funding must be made available to respond to the policy and what people wanted.

Councillor Horncastle advised that at the minute it was emergency work and survey work being undertaken, and he was to meet with P. Jones shortly on this.

**RESOLVED** that the update from the Portfolio Holder for Looking After Our Environment be noted.

### **38. REPORT OF THE CABINET MEMBER FOR INSPIRING YOUNG PEOPLE**

#### **Annual Portfolio Report – Inspiring Young People**

The Annual Report from the Cabinet Member for Inspiring Young People contained information that set the context for delivery of the Portfolio, highlighting achievements and outlined the areas for focus for the coming year.

Councillor G Renner-Thompson provided an introduction to the report. He acknowledged that the achievements would not be possible without the hard work of the staff of Children's Services, school staff and partners along with the cooperation of parents, carers and indeed the pupils and cared for children. Council was advised that currently 95% of schools within the County were good or outstanding and it was hoped that the work undertaken by the School Improvement Team would be trailed in other local authorities. It had been said by the industry, that the new welding and fabrication centre in Blyth was the best example within the Country with investment also being made in other vocational centres across the County. Dame Andrea Leadson, Government Minister for Early Years along with others had visited the family hubs in Blyth and Berwick and had been quoted as saying they demonstrated best practice in the Country. Support had also continued to be provided to families in the school summer holiday with arranged activities and health food provided for those attending.

Councillor Kennedy offered congratulations on the excellent figures in the report. He advised that at the end of the end of the last school year he had raised an issue that the staff of the Thursday Club for special needs children, which his son attended had advised him that they, along with a number of other staff, were being made redundant. He had been reassured that the service would be reinstated and would be started again before the beginning of the new school term in September. It was now November and the service had still not been reinstated and he had now been advised by a member of staff that it would not happen this year. He had accepted the original answer that it would start again in September in good faith, however he now wished to know when the service would be reinstated.

Councillor Renner-Thompson advised that he did not have that specific information, but he would obtain the information from A. Kingham, Executive Director for Children and Young People.

Councillor Ball stated that the report entitled inspiring young people did not mention youth work and she highlighted that there had been a cut of almost £1b decline in youth work spend since the Conservative Party took power as quoted in the YMCA and UK Youth Reports. The Cabinet Member had stated when Family Hubs were being discussed at FACS OSC that there would be no loss of youth workers. She questioned where youth workers were now in the County, as additional strain could not be placed on the voluntary and community sector as people were destitute, poverty was through the roof and young people were very important. She had stated in this meeting on numerous occasions that for every £1 invested in youth work it saved the tax payers between £3.20 and £6.40 and there was not one youth worker in Northumberland. She continued by stating that we either inspire young people or we do not and expressed her disappointed in the report.

Councillor Renner-Thompson responded by advising that there had been no cut to youth provision. There had previously been 12 posts, and the equivalent of 3.2 full time workers had been made redundant following a big consultation taking place on this. One of the redundant posts was only looking after a club with three children and resources needed to be managed. The 3.2

full time workers had been replaced with 4 youth support workers, an increase of one post in addition to the five support posts created within schools themselves and it was the intention for another two support workers to be appointed. Work was also being undertaken with Thriving Together, the Learning Link and the North East Youth Alliance on a cross regional youth offer, and currently 387 providers had been mapped out across the County which would be supported through the Family Hubs, allowing young people who were in need to be traced through the system. Youth clubs where young people went to play pool etc. were outdated and surveys were currently being undertaken to find out what the young people wanted and provision would be matched to this going forward.

For clarity, the Chair advised at this point that he worked for Youth Focus North East which was on his declaration. North East Youth Alliance was not on his declaration but Youth Focus North East was part of the North East Youth Alliance.

Councillor Foster questioned where the survey for young people was being carried out as she had a secondary age child and she had not seen this and would therefore like some information on that. She highlighted that there had been an issue with a contractor involved in the building of schools going into administration including the new Gilbert Ward Academy and schools in the Coquet Partnership. She had written to the Executive Director for Children and Young People with her concerns surrounding this and would like to thank her for the prompt response. On behalf of the Labour Group she would also like to acknowledge the work going on in the background by the Executive Director and her team to address the situation and put children and young people at the heart of what they were doing and thanked them very much.

Councillor Renner-Thompson advised that there had been a contractor who had gone into administration, however contingency plans were in place. The school building programme was incredibly important and they were trying hard to ensure that there were no delays to the programme.

Councillor Scott advised that Engage in Blyth had recently closed. Those children were the responsibility of the Council and she questioned if the Risk Protocol was sufficiently robust to support the families and schools who had one week to find an alternative place for their child.

Councillor Renner-Thompson advised that discussions were ongoing regarding the finishing of Engage and could not be discussed in this forum, however he would meet with Councillor Scott outside of the meeting to discuss this.

Councillor Morphet stated the Green Party welcomed the report. However they had concerns regarding the vagueness of paragraph 5.10 related to aerated concrete in school buildings and asked when would full structural surveys be undertaken in order to provide the assurance that was sought.

Councillor Renner-Thompson advised that structural surveys were carried out by both the Council and the DfE on a rolling basis and when RAC had first



been identified as a problem it had been confirmed by all schools within Northumberland that they did not have any RAC.

Councillor Hill sought assurance that the Administration would support Jackie at Engage in Berwick who was doing everything that she could to ensure that there was a continuation of the excellent provision in Berwick.

Councillor Renner-Thompson stated that once a decision had been made on the future of Engage, then a Member Briefing would be held to advise Members in the areas involved.

Councillor Cartie advised for openness, that she ran youth projects in Blyth and was also a member of North East Youth Alliance, however she was absolutely baffled by Councillor Renner-Thompson's statement that old fashioned youth clubs were outdated. She assured Members that these were not, she had 15-20 young people attending four sessions per week, and they went along to play pool and meet with friends in a safe place. They were not necessarily children who had social issues but they all lived in poverty. The funding for youth services was reducing dramatically with no funding from the Council and Children in Need also cutting funding. She invited Councillor Renner-Thompson to visit her youth club.

Councillor Renner-Thompson apologised if that was how his comments had come across and advised that this type of provision was not something that the Council would fund in the future, however organisations would be supported to allow them to run this type of facility.

**RESOLVED** that the update from the Portfolio Holder for Inspiring Young People be noted.

### **39. FAMILY AND CHILDREN'S SERVICES OSC – INTERIM REPORT TO COUNCIL**

Councillor Daley, Chair of the Family and Children's OSC advised that interim reports from the Committee would now be presented at Council replacing the minutes of meetings which had previously been included. The membership of the Committee included co-opted representatives from different educational faith organisations along with teacher union representatives providing a detailed level of debate and scrutiny overview of the very granular detail provided in the reports.

A comprehensive introduction was provided on the report with Council advised that the Annual Report of the Principal Social Worker was a statutory report providing assurance on the work of the Social Work team. In response to the reliance of agency staff the Council had created an Academy initiative to support newly qualified social workers in their first year which had been very successful. Of the 36 key recommendations from the Home to School Transport Review 30 of them had now been adopted. The work had been undertaken in conjunction with an interested parent to develop a solution to issues with the system. The School Improvement Team was made up of very

experienced and knowledgeable staff who worked with schools to improve attainment and attendance. A recommendation had been made to Cabinet not to reduce the funding for this service, which has been agreed. There had been a massive increase in the number of children and young people with an EHCP (Educational and Healthcare Plan) and a great deal of work had been undertaken to improve the quality of these plans and support pupils to stay in mainstream education.

He offered thanks to Councillor Richard Dodd who had previously served as Vice-Chair of the Committee and welcomed Councillor Eve Chicken to that position, and thanked all those involved with the education of children and young people for their continued work. Members were asked to contact him if they wished questions to be asked at the Committee or if there were issues that they felt required the Committee to scrutinise.

Councillor Grimshaw thanked the Committee for their excellent report and asked what was in place to ensure that the children of refugees were able to attend schools or SEND provision closest to their homes and if siblings were still being split up and sent to different schools.

Councillor Daley advised that the children of Ukrainian, Syrian and Afghanistan refugees were given priority in being offered the nearest school with available places, he was unable to answer whether siblings attended different schools, however Councillors should contact the Executive Director - Children, Young People and Education if they were aware of this as a guarantee had been given that children would attend their nearest school and that support with translation and mental health would be provided.

Councillor Gallacher wished to acknowledge the work undertaken by the School Transport section who had professionally dealt with problems caused by Covid, cost of living crisis and increases in fuel prices along with contractors entering into liquidation. There was always an open dialogue between the Section and the contractors in developing different ways to provide the service.

Councillor Daley stated that as part of the review, Officers spoke to other local authorities and looked at different models and they had now developed a pilot model offering different ways of providing the service and was a really innovative solution for both urban and rural mix. He would ask A. Kingham to pass on the thanks and comments to the team.

#### **40. HEALTH AND WELLBEING OSC - INTERIM REPORT TO COUNCIL**

Councillor Dodd, Chair of the Health and Wellbeing OSC provided an introduction to the report and started by thanking Councillor Veronica Jones for her work as Chair for the past two and a half years. The Committee played a vital role in public health and adult social care and covered a great deal of topics. The first two topics outlined in the report had similar traits in relation to the recruitment and retention the workforce, with shortages impacting on the number of people waiting to access services. Initiatives had been commenced

to alleviate these shortages and make the conditions better by increasing rates of pay for carers and mileage to make the positions more attractive. There had been some consideration of bringing the service in-house, but this did have financial risks. Concern was expressed regarding the closure of the 100 hour pharmacies in Cramlington and it was feared that this would not be a one-off situation and a number of pharmacies providing this would follow if the problem was not addressed. He Highlighted that a Task and Finish Working Group (T&FWG) had been set up to look at the issue which was Chaired by Councillor Nisbet.

In respect of the HM Senior Coroner's Annual Report, Members were asked to take an interest in the various areas of review coming forward advised that the North East Ambulance Service was to attend a meeting shortly. A further T&FWG had been set up to look at the provision of defibrillators, identifying where they are and who has responsibility for replacing the batteries/pads, how they can be accessed and how were people trained to use them.

Councillor Dickinson agreed that it was right to set up the T&FWG to look at the closure of pharmacies, but advised that another major problem within his own area and others was the closure of dental practices which impacted on access to services for children and Northumberland residents. He had been invited to the Committee when this was discussed to provide a local view and had been assured that access would not be affected, however they had now lost two practices and he had been advised that there was a waiting list of 800 to join another practice. This was replicated across Northumberland and whilst it was a national funding problem, there needed to be local monitoring and a spokesperson to give our voice.

Councillor Dodd agreed that this would be added as an agenda item for a future meeting.

Councillor Cartie advised that there were concerns regarding the closure of pharmacies in Newsham and Blyth. There had been a lot of new houses built within the area along with an aging population and the situation needed to be addressed either by making sure these were kept open or providing the pharmacy within another shop to ensure that the service was maintained. She welcomed that something was being done, and asked to be kept involved.

Councillor Dodd advised that part of the problem had been supermarkets wishing to provide everything and then backing out when it was no longer a profit making exercise, along with the availability of internet deliveries. He assured Council that the issue was being looked at and would keep Members updated.

Councillor Swinburn thanked Councillor Nisbet for the invitation to the T&FWG as the pharmacy was in his Ward and highlighted that the issue was not just with the removal of the extended hours, but also with stock availability with patients not able to access items. He advised that the pharmacy had also left the site prior to the end of the notice period which had put a strain on the pharmacy that remained with large queues. He did, however question how

much control the Council would have but wished to be kept advised so that he could respond to questions from residents within his Ward.

Councillor Dodds confirmed that this issue would affect everyone and that these extended hours pharmacies were needed. The OSC would work with the Health and Wellbeing Board on what could be done.

Councillor Morphet thanked Councillor Dodd and that the Green Party welcomed the comments regarding care workers but highlighted that it was not just about improving salaries and conditions, it was also about making them feel valued and to be proud of their work in order to solve the crisis.

Councillor Dodd noted the comments.

Councillor Grimshaw stated that the probable closure of pharmacies was of concern which must be addressed, and deliveries to vulnerable residents must also be part of this.

Councillor Dodd noted the comment.

Councillor Bridgett commented that he was pleased that the issue of defibrillators was being looked at as this was an important issue. He questioned if Members were aware of how they should be used as he had not been. There was no map of the locations of the equipment with some needing a 999 code to access. It was important that all Councillors were aware of where the equipment was, how to access it and how to use it.

Councillor Mather advised that he was a community first responder and there was a programme which was used called "The Circuit" which listed the location of defibrillators. He paid tribute to all the community and voluntary organisations and parish councils that had raised funds to have these provided. Training was very important and everyone should know how to use them, however there were protocols in place for their use to stop people going straight for these in an emergency. There were other more important things which needed to be done prior to using a defibrillator and the Council should be working with the ambulance service to promote this key message. He would be happy to work with the Committee on this.

Councillor Dodd commented that this was a topic which was important to people and he thought there should be some sort of visible sign to alert people to where defibrillators were located and asked Members to email himself, Councillor Nisbet or Chris Angus for any suggestions on how this could be done. He would be interested to know the number of defibrillators within the County and highlighted that maintenance of the machines was important with the life of the battery only five years from the build of the machine and not from when it was actually installed at a venue.

#### **41. REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR CORPORATE SERVICES**

##### **Corporate Performance – Quarter 4 2022/23 Outturn Report**

Councillor Wearmouth, Deputy Leader and Cabinet Member for Corporate Services provided an introduction to the report which provided a summary of the progress against the Council's three Corporate Plan priorities using the Council's performance at the end of Quarter 4 of 2022/23. Thanks were provided to the customer services team who had answered 92% of calls in an average time of 136 seconds, which was exceptional and related to a wide variety of questions. In relation to the financial position of the Council it had been a turbulent year however the year had been ended with an underspend of £5.8m for 2022/23. He had been very pleased to see the improvement in using local contractors and this would be continued to be pushed forward through the BEST programme and other projects. Good progress was being made with the provision of superfast broadband, noting however that there was always more that could be done. There was a great deal of data contained in the report which would be of interest to Members.

Councillor Dale highlighted the digital phone switchover which would have a massive impact for residents especially in rural areas where additional equipment might need to be purchased to ensure phone connectivity during storms etc. The possibility of having a partnership between the Council, BT and other organisations with an interest was suggested to make sure all worked together and as people were rightly concerned about this.

Councillor Wearmouth advised that this would be addressed during Policy Conferences and this would also be picked up by Scrutiny. There was need for discussions with the relevant Companies and residents needed to know that this was going to happen and innovative ways of providing resilience would be required.

Councillor Ball questioned when the levelling up money was to be spent in Ashington and when a consultation on how this was to be used would take place as she had been told this would take place in autumn and she had heard nothing with residents becoming disillusioned and frustrated.

Councillor Wearmouth responded by thanking her for bringing to Members' attention the Government funding which Ashington had attracted and, with which he believed, good progress was being made. Councillor Ploszaj and the Regeneration team would be providing more information in due course. This funding was in addition to that already being provided for the new station in Ashington and College with lots of things for the residents of Ashington to look forward to.

Councillor Carr was pleased to see the broadband targets were being met, however he also had concerns when in 2025 the pstn lines would cease to exist and questioned if anything was being done to identify the small demographic of residents who did not have internet connection and would be

trapped with no way of contacting the Council as often they also did not have mobile phones.

Councillor Wearmouth advised that this would be work the team would be undertaking as it was definitely something that the Council needed to understand, however it would not be straightforward to identify which residents would need to be contacted and that they would be provided for as they wished.

Councillor Morphet stated that it had been noticed that the Council's inequalities work was more focussed on health inequality and poverty prevention rather than wealth inequality. It was suggested that focus should be on the maximum to minimum income ratio, the maximum to minimum land ownership ratio and maximum to minimum total wealth ratio for the County to monitor the progress in tackling inequality as the problem as a whole would never be solved unless the big picture was looked at.

Councillor Wearmouth responded by stating that there was a whole variety of KPIs which were constantly being reviewed. Ultimately he thought there was a great deal being done to bring investment into the County, creating jobs and making sure that people were being given the best start in life. Credit should be given to the Council and the Leader for putting inequalities at the heart of everything that the Council were doing.

Councillor Grimshaw highlighted the impressive performance of the Communities Together team, for which she had great respect in that they did an absolutely fantastic job in responding to requests and she wished to ensure that the service was fully funded and staffed in order to provide help to vulnerable people within the County.

Councillor Wearmouth also joined her in thanking the staff of Communities Together with the focus now moving from the Covid and Ukraine response to achieving the right focus for the future.

Councillor Dickinson stated that he welcomed that the Leaders were now having a discussion regarding KPIs and he would like to meet with Councillor Wearmouth separately on this. Whilst he was pleased to see some improvement and there was a lot to see, he felt that there could be more evidence/data provided to give weight to the document. He asked if the revised KPIs would be implemented in time for the next report.

Councillor Wearmouth advised that KPIs were constantly being reviewed and the Administration was keen to receive feedback through scrutiny etc and Group Leaders had the ability to provide feedback through the Group Leaders meetings. However, he did ask that KPIs were not changed repeatedly as then the thread of what you were trying to monitor could be lost.

**RESOLVED** that the progress against the three Corporate Priorities, as summarised in the report, be noted.

## **42. REPORT OF THE DEPUTY LEADER AND CABINET MEMBER FOR CORPORATE SERVICES**

### **Treasury Management Annual Report for the Financial Year 2022-23**

Councillor Wearmouth, Deputy Leader and Cabinet Member for Corporate Services provided an introduction to the report which provided details of performance against the Treasury Management Statement 2022-23 which had been approved by Council on 23 February 2023. The report provided a review of borrowing and investment performance for 2022-23 set in the context of the general economic conditions which had prevailed throughout the year. It had been a difficult time, but had been well led by the S151 Officer and whilst there had been little bumps from time to time the financial heart of the organisation was still good.

Councillor Grimshaw commented that this had been a difficult time but Officers had done an excellent job.

**RESOLVED** that the report be received and the performance of the Treasury Management function for 2022-23 be noted.

## **43. REPORT OF THE AUDIT COMMITTEE**

### **Annual Report from the Audit Committee**

Councillor Towns, Vice-Chair of the Audit Committee provided an introduction to the report which was the annual report of the Audit Committee to Council for 2022/23 and which had been agreed by the Audit Committee at their meeting on 27 September 2023.

Councillor Towns thanked the officer team who had worked with the Committee to produce the interesting and detailed reports provided to the Committee. He continued on behalf of the Committee by thanking S Watson the former Independent Chair, who had fulfilled that role in an excellent manner and who had stepped down recently. Council was now looking to recruit another Independent Chair to fulfil that role.

He advised that the Council's Audit Committee, as part of its Group Audit function, had audit oversight of Advance Northumberland who also had their own Audit Committee. The two Committees had worked well together and as part of his Independent Chair role, S. Watson had been attending the Advance Audit meetings. As Vice-Chair, he would continue to do this to ensure liaison between the two entities until a new Independent Chair was appointed. Audit Committee were to receive a further detailed report, as indicated at the last meeting, which would wrap up all outstanding issues related to severance payments. As that would be an issue for that Committee to comment on once all information had been provided to them he would not be commenting or answering any questions related to that issue.

Councillor Grimshaw also added her thanks to S. Watson who in her opinion had been an excellent Chair and had handled difficult meetings well. She echoed the comments in thanking all the team who worked behind the Audit Committee.

Councillor Dale highlighted the statements made by the Tax Payers Alliance in relation to the sign off of accounts by the County Council and advised that it should be made clear that the Statement of Accounts had been signed off and it was actually the Value for Money report which had not been signed off as these two things were being confused.

Councillor Dickinson thanked the Committee for their work, and advised that he had raised with the Leader certain behaviours at the Committee which had not been ideal for Members of his party and he hoped that this would improve going forward.

Councillor Hill highlighted that reports in the press had used incorrect legal terminology and asked that if Councillor Towns was to Chair the meeting that he would ensure that the correct terminology was being used.

Councillor Towns advised that Audit Committee looked forensically at information and that it was important that the correct legal terminology was used and he would step in if this was incorrect or misleading.

**RESOLVED** that Council note the Audit Committee Annual Report for 2022/23, attached as Appendix A to the report.

S. Gerrard, Director of Law and Corporate Governance (Monitoring Officer) left the meeting at this point.

#### **44. REPORT OF THE CHAIR OF THE STAFF AND APPOINTMENTS COMMITTEE**

##### **Director of Law and Corporate Governance (Monitoring Officer) – contractual change from fixed term to permanent status.**

Councillor Sanderson, Leader advised that the Staffing and Appointments Committee had met on 25 October 2023 to consider the proposal to seek approval that the current postholder in the role of Director of Law and Corporate Governance (Monitoring Officer) be contracted on a permanent basis. An additional report of the Staffing and appointments Committee asking that Council consider their recommendations had been circulated in advance of the meeting. The Leader continued by stating that following some solid work by S. Gerrard, and the fact that the Council wished to appoint a full time permanent Monitoring Officer, that he was happy to propose the recommendation as outlined in the circulated report which was seconded by Councillor Towns and it was

**RESOLVED** that Council approved the recommendations from the Staffing and Appointments Committee held on 25 October 2023 as follows:-



1. The current postholder be offered a permanent contract in the role of Director of Law and Corporate Government (Monitoring Officer);
2. That permanent contractual status be offered from 2 November 2023; and
3. It be noted that all other terms and conditions of employment, including salary of £139,366 per annum would remain unchanged.

S. Gerrard returned to the Chamber to a round of applause.

.....  
Chair of the County Council

.....  
Duly Authorised Officer

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## Northumberland County Council

### COUNCIL

DATE: 17<sup>TH</sup> JANUARY 2024

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### Annual Portfolio Report – Looking After our Communities

**Report of:** Councillor Gordon Stewart, Portfolio Holder for Looking After Our Communities

**Responsible Officers:** Graeme Binning, Chief Fire Officer and Gill O'Neill, Executive Director of Public Health, Inequalities and Stronger Communities

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#### 1. Purpose of report

- 1.1. This is the Annual Portfolio Report from the Portfolio Holder Looking After Our Communities. The Report contains issues that set the context for delivery of the Portfolio. It highlights achievements over the past year and, outlines the areas of focus for the coming year.

#### 2. Recommendations

- 2.1. Council is recommended to:
  - (i) Note the Portfolio Holder for Looking After Our Communities Annual Portfolio Report.

#### Link to Corporate Plan

- **Achieving Value for Money** – All of the services within this portfolio strive to achieve the best value for money in everything they do.
- **Tackling Inequalities** – The Portfolio plays a vital role in driving delivery of the Council's Inequalities Plan through ensuring that residents, particularly vulnerable households are supported to be safe from fire and other harms.
- **Driving Economic Growth and Jobs** - The Portfolio contributes to growth and jobs by ensuring business premises are safe and well-regulated for everyone to enjoy, creating a positive trading environment for residents and businesses alike.

#### 3. Key issues

- 3.1. The Annual Portfolio reports from each of the Council's Cabinet Members provide a valuable opportunity for Council to consider and comment on the work of each Portfolio. This strengthens the important link and accountability between key decisions taken by the Cabinet and achievement of the three priorities of the Council as set out in the Corporate Plan.

## **4. Background**

- 4.1. The Council adopted the Corporate Plan at its Annual General Meeting on 17<sup>th</sup> May 2023. The Plan establishes three priorities for the Council, underpinned by our approach to tackling Climate Change. The Annual Council Achievements Report (reported to Council in March 2023) sets out overall progress against the three priorities whilst this Portfolio report provides an opportunity for Members to drill down further into the work of the Looking After Our Communities Portfolio.

## **5. Context**

- 5.1. This report sets out an impressive set of achievements and continuous improvement across Public Protection, Fire & Rescue, Community Safety, Registration and Coroner services. These achievements and improvement are set in the context of continuing to safely manage business recovery from the Covid Pandemic as well as responding effectively to new challenges such as Avian Flu outbreaks. The Portfolio Holder would like to place on record his thanks to all the Officers involved for their hard work, innovation and dedication to looking after Northumberland's communities.

## **6. Achievements**

### **Public Protection**

- Public Protection successfully delivered the 2022/23 Food and Feed Safety & Standards Service Plan. All the targets were met or exceeded. The delivery of this work was focused on the 'ask' from the Food Standards Agency in terms of its recovery plan after Covid 19. The 2023/24 plan was adopted by Cabinet in October and is currently being delivered.
- The Animal Welfare Team achieved the RSPCA's Platinum Award for its stray dog collection service after achieving 15 years of gold standard awards.
- The Environmental Enforcement Team was successful in being awarded a £33,000 grant for its fly tipping intervention programme. This purchased 16 new CCTVs that are currently deployed at 'hot spot' areas and are resulting in additional successful investigations. Fly tipping is an area of high priority for the Council and this funding will help the service target areas to ensure we use our resources as effectively as possible.
- The Trading Standards team seized and removed from the market over 3,000 illegal vapes and tobacco products. Illegal vapes are a national problem so work in this area, particularly stopping children access these, is very much at the forefront of Trading Standards who are supported by the Public Health Team in this.
- Avian Flu was at unprecedented levels in the last year, mainly in the wild bird population. Responsibility for dealing with outbreaks sits with the Animal and Plant Health Agency, but locally Public Protection react to outbreaks. There were a number of wild dead birds found in Northumberland's beaches and the Team acted swiftly to ensure clean up as well as keeping residents informed.

## **Building Control**

- In a year the Building Control service generally oversees building works to the value of over £100 million.
- The Service has overseen major construction works at the new leisure centres in Berwick and Morpeth, along with the Ad Gefrin in Wooler. The service is currently looking at the design works for the Blyth Culture Centre.
- Throughout the year, the Service dealt with a number of dangerous buildings, including the emergency demolition of a premises which went on fire in Haltwhistle. For the first time in some years, the Service has had to take court action to ensure works were completed and dangers removed by either the Council or building owner.

## **Licensing**

- The Licensing Team in Public Protection are responsible for issuing licences across a large number of areas, including: taxis, alcohol, street trading, animal boarding, zoos, caravan sites, gambling establishments and scrap metal dealers. In the past year this resulted in 2,900 being issues by the Service.
- The Service has produced a number of reports on various licensing matter for the Licensing and Licensing & Regulatory committees. A main focus over the last few years has been how rising costs have impacted many areas covered by licensing. This includes 'taxi tariffs', which are set by the Council. This has required consultation with interested parties and a final agreement by the Committee. The 'taxi tariff' is to be reviewed in 2024.

## **Fire & Rescue Service**

- Northumberland Fire and Rescue Service has produced its first ever Annual Performance Report reflecting on the performance of 2023/24 and looking forward to the priorities for 2023/24. The Annual Performance report was presented to Communities and Place Overview and Scrutiny Committee on 27 September 2023 and a refreshed report will be presented annually. In addition to reporting on our core measures, the report captures additional achievements for 2022/23. The Fire & Rescue Service has:
  - Introduced a Fire and Rescue Assurance and Challenge Panel.
  - Embedded a Strategic Performance Board and refined our core and service measures.
  - Introduced a Fire Standards and Assurance Steering Group to oversee our holistic approach to national fire standards.
  - Implemented Annual Operating Plans to monitor progress across all departments.
  - Introduced development portfolios for crew, watch and station manager roles.
  - Developed a talent management strategy to support career pathways.

- Introduced improved quality assurance arrangements for Site Specific Risk Information (SSRI).
- Implemented quality assurance and evaluation for all prevention programmes.
- Increased the use of social media platforms to promote key messages.
- Increased the number of National Inter-Agency Liaison Officers (NILO).
- Invested in technology by submitting business cases for Learn-Pro and a Dynamic Mobilising Tool which will help to improve our response to risk.
- Improved our partnership and collaboration including membership on boards such as the Health and Wellbeing and Youth Justice Boards.
- Piloted a Level 2 Equality, Diversity and Inclusion programme with comprehensive evaluation.
- Strengthened our Equality Impact Assessment process to support policy development.
- Reintroduced Institute of Occupational Safety and Health (IOSH) and National Examination Board in Occupational Safety and Health (NEBOSH) qualifications across the organisation.
- Introduced a Community Risk and Response Strategy to improve appliance availability, including the implementation of rolling recruitment, staffing clusters and support officers.
- Introduced an Aerial Ladder Platform (ALP) to the operational fleet.
- Collaborated with Northumbria Police and Mountain Rescue on the purchase of a 6x6 off-road vehicle funded through Northumberland Partnership Against Rural Crime.
- Introduced a drone capability into Community Risk and Response.
- Increased the cadre of station-based Level 3 Fire Safety Inspection Officers to deliver a greater number of Fire Safety Audits in commercial premises.
- Developed a robust approach to firefighter safety when considering contaminants and toxins.

### **Safer Northumberland Partnership (SNP)**

- The Partnership has made significant progress toward a greater contribution to communities including developing a 'road map to steer this work. This includes investment and new resource into the Strategic Community Safety function with dedicated SNP support, including strategic leadership for the SNP with the Executive Director of Public Health, Inequalities and Stronger Communities. Partnership cohesion has been an achievement in the last year and continues to develop. Having reviewed membership and ensuring understanding of joint aims and objectives, this continues to advance and in turn the SNP has been reinvigorated, which has been recognised by stakeholders.
- Greater understanding of demand with a community safety Strategic Needs Assessment (SNA), and development of a dashboard platform for the SNP, has been achieved through partnership working, both internally within NCC and with

several partners. This has allowed identification of SNP objectives and priorities across five themed work areas and will focus future activities.

- Several successful grant funding bids have been made which in the last year have contributed to SNP objectives and positive outcomes for communities. A significant achievement came with the successful award of £170k, that aims to tackle Anti-Social Behaviour (ASB) in a place-based hotspot initiative and across the wider county transport network, under the banner of 'Operation Alliance', with focus also on the safety of women in public places. This initiative has recruited four staff into Northumberland Communities Together (NCT) that will be embedded into community activities and seek to improve lives.
- The SNP led on and delivered positive operational activities to protect communities such as the Night Time Economy (NTE) wintertime serious violence initiative, with specific focus on the festive period, and Operation Disband tackling ASB in response to community concerns. Additionally, establishing strong partnership links and support to the Northumberland Partnership Against Rural Crime (NPARC) are positive examples.

### **Registration Service**

- The Registration Service partnered with "Settld during 2023 to offer bereaved families attending a death registration appointment the opportunity to receive free administrative support when taking the steps to administer the estate and affairs of a loved one. Focusing on working with private sector organisations to provide death notification data, the Settld service complements the already established Tell Us Once for Bereavement service offered to bereaved families who are registering a death, which focuses on death notifications to public sector organisations. Together, both services offer families "wrap around bereavement support and this has been well received to date by those families who have opted to use Settld.
- During 2022/23, the service conducted a total of 2,476 ceremonies across the county, the highest annual volume to date. Ceremonies in Northumberland continue to be popular, and the county has an excellent reputation as a destination for ceremonies, offering a wide range of venues. Year to date, during 2023/24, 2,255 ceremonies have been delivered.
- In April 2023, the service was subject to a Stock and Security Audit conducted by its governing body, the General Register Office (GRO). To provide assurance to the Registrar General and His Majesty's Passport Office Assurance Senior Information Risk Officer, regular reconciliation of the secure certificate stock held by the Registration Service is undertaken. This provides assurance under the HMG Security Policy Framework that local authorities have systems and processes in place to minimise risk and protect both assets and services appropriately and supports the wider Home Office Public Protection agenda. The audit involved examination of the security arrangements around the receipt, storage and use of secure certificate stock held. In addition, a review of the data storage arrangements and security of and access to registration records and information was also undertaken. The outcome of the GRO Stock and Security Audit has ranked the Northumberland Registration Service as demonstrating an assurance level of 'high'.

- The Registration Service was able to showcase birth registration across the Family Hub network to Dame Andrea Leadsom, the Government's Early Years Advisor when she visited Blyth Family Hub in May 2023. This highlighted the impact and potential of delivering this service in a 'family centric' setting and how this contributes to giving children the 'best start in life'.

### **Coroner Service**

- Andrew Hetherington, Senior Coroner for Northumberland provided an update on the Coroner Service to Cabinet and the Health and Wellbeing Board during 2023, reflecting on the previous year's achievements, statistics and service delivered. The report highlighted that, despite a growing caseload for the service, attributed to more effective reporting of deaths in line with the Notification of Death Regulations 2019 and the emerging influence and scope of NSECH, the service carried no backlog of cases over 12 months. The timeliness of cases progressed to inquest in court was below the England and Wales average of 30 weeks, with Northumberland at 26.5 weeks.
- As part of his national Welfare Tour, the Council welcomed HHJ Thomas Teague KC, Chief Coroner for England and Wales in February 2023 as he took time to visit the Coroner Service, meeting with the Senior Coroner, Leader, and Executive Director, along with Coroner's Officers and support staff. Following his visit, the Chief Coroner commended the County Council for its excellent facilities within County Hall to enable the work of the Senior Coroner, and to support bereaved families who are required to attend court during an undoubtedly challenging time when coping with bereavement and loss.
- In March 2023, the Senior Coroner and Head of Community Services were invited by the Chief Coroner to speak at his annual Local Authority Conference, held in Central Hall Westminster, to highlight the excellent Covid 19 recovery work delivered by the Northumberland Coroner Service. During the Pandemic, the service operated as usual working within safe working practice guidelines, with risk assessed procedures to ensure that investigation and inquest work could continue. This has resulted in no backlog of casework, and bereaved families being able to achieve conclusion and closure following loss in a timely manner.

## **7. Key Areas of Focus for the Coming Year**

The following summarises, key areas of focus for services in this Portfolio in the coming year.

### **Public Protection**

- Delivery of the 2023/24 Food and Feed Safety & Standards Service Plan in line with the Food Standards Agency Code of Practice. This will enable the Team to reflect on and respond to expected changes in Food Standards 'risk scores'.
- Continue to promote the use of the newly acquired CCTV and take positive enforcement action when needed, with the aim that the number of offences reported or seen is reduced.
- Continue to deal with any notifiable diseases outbreak and work with partners to ensure Northumberland is in the best position it can to deal with these.



- Ensure a smooth transition of some of the work carried out by the Local Land Charges Team as this moves across to His Majesty's Land Register.
- The Building Control Service will ensure staff are trained and assessed to meet the requirements of the Building Safety Act.

## **Fire & Rescue Service**

- During 2023/24, Northumberland Fire and Rescue Service was inspected by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS). The report was published on 29 November 2023. We are delighted that overall, Northumberland has made significant improvements since the previous inspection. Key highlights include:
  - No Causes of Concern.
  - No 'Inadequate' grades.
  - No 'Requires Improvement' grades.
  - Seven 'Adequate and four 'Good' grades.
  - Twelve 'Areas for Improvement' (representing a 52 percent reduction since the second round of inspections).
- Inspectors found Northumberland Fire and Rescue Service to be good at making the service affordable now and in the future, supporting the Council's priority of Achieving Value for Money. His Majesty's Inspector states that the service has '*a sound understanding of its future financial challenges and plans accordingly, using their assessment of risk within the county to guide them.*' Inspectors noted that the service '*actively seeks efficiencies using technology to enhance performance.*'
- When considering the Council's priority of Tackling Inequalities, HMICFRS has found that Northumberland Fire and Rescue Service is good at preventing fires and other risk. Inspectors have recognised that that the service uses a broad range of data to identify vulnerable people in the community and that the service uses a risk-based approach to clearly prioritise its prevention activity at those most at risk from fires and other emergencies.
- On Driving Economic Growth, Northumberland Fire and Rescue Service delivers a risk-based inspection programme to focus resources on those businesses most likely to be non-compliant when considering the Regulatory Reform (Fire Safety) Order to reduce risk across the county. The Service recognises that nearly 60 percent of businesses never recover following a fire, and therefore it is essential that risk in this area is reduced. Inspectors noted that the service uses the full range of enforcement powers and, where appropriate, it prosecutes those that don't comply.
- 'Areas for Improvement' will direct focus for the Service going forward. These include:
  - Further embedding quality assurance arrangements for Site Specific Risk Information (SSRI).
  - Completing a comprehensive review of protection arrangements across the service, ensuring robust quality assurance arrangements are further embedded.

- Reviewing policies and procedures for mass evacuation in the event of a major incident.
- Strengthening business continuity testing arrangements.
- Evaluating collaboration activity.
- Undertaking a training analysis to further strengthen progress already made against workforce planning.
- Continuing to improve equality, diversity, and inclusion across the service.
- Updating the appraisal process in collaboration with Human Resource colleagues.
- Further embedding the talent management process for aspiring leaders.
- Progress against these key areas will be monitored using the Service's Continuous Improvement Plan, with progress presented monthly at Directorate Management Team meetings.

### **Safer Northumberland Partnership (SNP)**

- Development of SNP representation and influence, embedding refreshed strategic membership, governance, engagement, and partnership activities.
- Ensuring all business areas fulfil statutory requirements, including in particular:
  - The Crime and Disorder Act (1998) - NP partnership plan.
  - The Police, Crime, Sentencing and Courts Act (2022) - Serious Violence Legal Duty.
  - The Counter Terrorism and Security Act (2015) – 'Prevent' assurance.
  - Terrorism (Protection of premises) draft bill – 'Martyn's Law' expected 2024.
- Establishing greater coordination across other Council-led strategic partnerships, such as Domestic Abuse Local Partnership Board (DALPB), Northumberland Childrens and Adults Safeguarding Partnership (NCASP), as well as SNP representation and attendance at local and regional boards and other national forums essential to develop, advance and deliver the priority areas and statutory responsibilities.

### **Registration Service**

- The Service will work with local schools to develop a 'citizenship' learning opportunity whereby young learners will attend a citizenship ceremony delivered by the Registration Service, where new citizens will be awarded their Certificate of Naturalisation, and therefore become a British Citizen. As part of the ceremony, children will take an active part in the event and learn about the process to become a British Citizen, what citizenship entails and the value it brings to local communities.
- The introduction of the Medical Examiner service as a statutory service effective from 1 April 2024 is expected to improve the accuracy and timeliness of Medical Certificates of Cause of Death, a key document produced by doctors when death is

certified and required by families before a death can be registered. Consequently, a higher percentage of deaths are expected to be registered within the key performance indicator of 5 calendar days from when death occurred.

## **Coroner Service**

- The Service is working with Northumbria NHS Trust to ensure a more efficient and cost-effective mortuary service is provided by the Trust to the Senior Coroner. New arrangements are expected to be in place by April 2024.
- From February 2024, a new body conveyancing contract for the Coroner Service will be awarded for a period of up to 4 years. This will ensure that the deceased are transported across the county at the direction of the Senior Coroner to meet exacting standards of care and to preserve dignity, whilst also providing best value.
- From 1 April 2024, the present North Northumberland and South Northumberland coroner areas will merge to form a new, single Northumberland coroner area. This will be enabled by Statutory Instrument and will involve the Service working in tandem with the Ministry of Justice (MOJ) and Chief Coroner’s Office. No significant service changes will be apparent post-merger, other than for administrative purposes when submitting an annual return to MOJ.
- The national Medical Examiner Service will become a statutory service from 1 April 2024. This service provides independent scrutiny to all deaths, not just those which are deemed sudden, suspicious, or not natural cause and as such referred to the Coroner. The Department of Health and Social Care published draft regulations for the statutory system in December 2023.
- In Northumberland, the Medical Examiner service is already established and is based at NSECH. An excellent relationship is in place between the Senior Coroner and Lead Medical Examiner for the trust, and as the service becomes statutory, this relationship will continue to develop with a shared focus on delivering excellent scrutiny into deaths which occur in the county and providing assurance to bereaved families.

## **Implications**

<b>Policy</b>	This report supports delivery of all three priorities of the Corporate Plan.
<b>Finance and value for money</b>	Value for money is a priority for the Council. This Report contains no direct financial implications.
<b>Legal</b>	Whilst this report contains no immediate legal implications, the delivery of the individual actions within the Portfolio may have legal implications, which would form separate reports as these arise.

<b>Procurement</b>	N/A
<b>Human Resources</b>	N/A
<b>Property</b>	N/A
<b>Equalities (Impact Assessment attached)</b> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	N/A
<b>Risk Assessment</b>	None at this stage.
<b>Crime &amp; Disorder</b>	N/A
<b>Customer Consideration</b>	N/A
<b>Carbon reduction</b>	Each of our three Priorities have an important a part to play in responding to the Climate Change Emergency.
<b>Health and Wellbeing</b>	N/A
<b>Wards</b>	All

Enclosure

Background papers:

N/a

Linked documents

- Corporate Plan 2023-26
- Corporate Plan Achievements Report March 2023

Report sign off.

*Authors must ensure that officers and members have agreed the content of the report:*

	Full Name of Officer
Chief Executive	Helen Paterson
Monitoring Officer/Legal	Stephen Gerrard
Executive Director of Finance & S151 Officer	Alison Elsdon (on behalf of Jan Willis)
Relevant Executive Director	Graeme Binning, Gill O'Neill
Portfolio Holder(s)	Cllr Gordon Stewart

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## COMMUNITIES AND PLACE OSC

### REPORT TO COUNCIL

17 JANUARY 2024

#### INTERIM SCRUTINY REPORT

The Committee has so far met on five occasions this year. As part of the new way of working in scrutiny since the review and redraft of the Council's Constitution at the Council AGM, members have set about identifying areas for examination that reflect our own priorities, but also working closely with portfolio holders and senior officers, exploring how and when we can assist them in formulating policy in the coming months and beyond.

Copies of all the reports and the minutes of our meetings are available on the Council's website:

<https://northumberland.moderngov.co.uk/ieListMeetings.aspx?Committeeld=144>

#### 1. Work Programme

At those meetings I specifically invited the following Cabinet Members to discuss with us forthcoming issues within their respective portfolios: John Riddle – Improving Our Roads and Highways; Colin Horncastle – Looking After Our Environment; Gordon Stewart - Looking After Our Communities, and Jeff Watson – Promoting Healthy Lives. It became clear during those discussions that some of the issues that we identified for inclusion on the work programme may not emerge until 2024/25, but agreed to list the following:

##### 1.1 Improving Our Roads and Highways

- Fix My Street (with links to Network Management Plan/road hierarchy)
- North East Transport Plan
- Local Cycling Walking Investment Plans – development of the programme
- Northumberland Road Safety Strategy – use of members scheme funds and costings.
- Northumberland Rights of Way Improvement Plan

##### 1.2 Looking After Our Environment

- Social Housing Regulation Bill
- Homelessness and Rough Sleeper Action Plan
- New Section 106 system
- Green/Open Spaces Review
- Local Nature Reserve Strategy
- Planning Performance including information on application numbers, resourcing and enforcing (including the legal process)

### 1.3 Looking After Our Communities

- Stronger Local Resilience Forum pilot and COMAH (Control of Major Accidents Hazards) exercise
- Fire and Rescue Services Annual Performance

### 1.4 Promoting Healthy Lives

- Annual Review by Active Northumberland
- Presentation by future leisure services provider
- Destination Management Plan and Destination Development Partnership

We will continue to add to that list as further issues emerge.

## 2. Firefighter's Decontamination

In May, the Committee considered the risk of contaminants from fires and the measures that could be put in place to reduce the danger of these impacting on the health and safety of firefighters.

We were particularly concerned to learn that firefighters were 7 times more likely to have cancer than the general public and were diagnosed earlier in their 40s and 50s. This was due to a cocktail of chemicals including carcinogenic materials which were produced by fires. Personal protective equipment (PPE) protected firefighters' skin and respiratory systems, but wind conditions could also mean that those outside burning buildings were also impacted by smoke and air borne fibres, which may or may not be visible or easily wiped off. They caused both acute toxicity and/or chronic toxicity which impacted on the body's internal organs.

Following an extensive discussion and a demonstration of PPE including new breathing apparatus, helmet and coat, and comparison made with a dirty helmet which had been sealed in a protective bag, the Committee formulated the following recommendation which was approved by Cabinet in June:

*that financial support for the recommendations made by the fire and rescue service be provided to ensure that Northumberland was leading to reduce the risk of contamination and supporting fire and rescue personnel.*

## 3. Food Waste Recycling Pilot

The Committee continues to monitor the implementation of the Food Waste Recycling Pilot which has been rolled out in four areas: Morpeth/Longhirst/Hebron/Ulgham, Morpeth Stobhill, Bedlington and Pegswood.



In May, we were advised that the key findings to date were:

- Overall set out rate of 47.2%
- Average weight of 2.84 kg collected per week from actively participating households
- Average weight of 1.4 kg collected per week for all households in trial area issued with a bin
- Very low levels of contamination
- Negligible missed collections and reliable replacement caddy liners (bags)
- Positive feedback is being received from residents participating in the service – overall user satisfaction levels are still to be determined via customer survey activity later this year

We were pleased with the progress made in developing this scheme and will continue to monitor this and other recycling initiatives in the future.

#### **4. Development of a Tree Management Strategy**

As set out in the Committee's Annual Report last year, the OSC has played an active role in the development of the Tree Management Strategy and was content to support the draft Strategy when it was presented to us in July.

However, Members continued to raise their concerns regarding the affect that Ash Die-back was having on a significant number of the tree population in the county, particularly where there was danger to residents in public spaces and to the highway. We were advised that inspections were being carried out at key sites such as streets near schools and key paths in parks, and that sample checks were being carried out on key arterial routes to obtain a sense of the scale of the problem including the A69, A189, A68, A689 and the B road between Belsay and Morpeth. There would then be an assessment of the scope of the works required on those routes before making rough calculations for the remainder of the county's arterial routes. The Committee will continue to monitor this situation and support all efforts to identify areas where improvements can be made.

#### **5. Homelessness and Rough Sleeper Strategy for Northumberland 2022 -26 Progress Against Action Plan**

When the Strategy was approved by Cabinet in March 2023, the OSC agreed to monitor progress against the action plan, which we did in October.

Members highlighted a number of issues arising from the report, including:

- arrangements for asylum seekers;
- improving void turnarounds;
- challenges around assessing those individuals recently released from prison;

- provision to assist those in the armed forces or veterans with dedicated armed forces case workers and recent recertification of the Gold award to the Council by the Ministry of Defence's Employer Recognition Scheme;
- the current economic climate was having a noticeable impact on the number of Section 21 notices being served. Many properties were being sold by landlords due to increases in mortgage costs for property owners. Local authority housing allowance rates did not match rent levels and many tenants could not afford to pay the difference, and
- the 'Somewhere Safe to Stay' project placed rough sleepers somewhere safe overnight and provided assistance finding accommodation.

We thanked officers for the work undertaken by the housing team, but felt that:

- more social housing was needed;
- the insurance product would help Ukrainians who did not have the required length of employment history;
- homeless figures were possibly suppressed by families living with relatives, and
- families experiencing difficulties with mortgage payments or rent created a difficult environment for children to be brought up in.

## **6. Fix My Street**

Around five months after the introduction of the Fix My Street public realm reporting system, the Committee looked at how the scheme was being implemented. John Riddle, the Portfolio Holder, advised us that although there had been a few minor teething issues, information was now available to officers much quicker and more easily accessible than previously; the system was enabling processes to be streamlined and consequently, was making the workforce more efficient, and members/public reporting issues to the Council were receiving timely updates.

Members felt that the system was working well and was relatively easy to use both for elected members and the public and we welcomed the automatic updates that were generated as issues were resolved. We acknowledged that further tweaks would be needed following feedback from users and noted that some improvements were already planned.

## **7. Planning Services Performance**

The Committee has considered an overview of the performance monitoring and assurance arrangements currently in place for the Local Planning Authority function of the Council. We also received an update on the Levelling-Up and Regeneration Act 2023 which had been given Royal Assent in October 2023 which intended to facilitate growth in all parts of the country.

The presentations provoked a lengthy discussion in the meeting, as set out in the detailed minutes, however members were pleased to note that for many of the key performance indicators, the Council was in the top 25% of authorities (of 470 local authorities) and top 1% for some indicators.

Overall, the Committee was supportive of the Planning service, but was also concerned at the increasing workload for officers who were already performing a very challenging role. The Committee has therefore made the following recommendations to Cabinet:

1. to consider investment in the enforcement team and the addition of a rolling fighting fund to support this work, and
2. to consider additional support for the Planning Department to deal with the increase in the number of planning applications and enquiries received.

**COUNCILLOR NICK OLIVER**

**CHAIRMAN**

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## Northumberland County Council

County Council

17 January 2024

### Introduction of Corporate Safeguarding Policy

**Report of Councillor(s)** Councillor Glen Sanderson, Leader of the Council

**Responsible Officer(s):** Helen Paterson, Chief Executive

#### 1. **Link to Key Priorities of the Corporate Plan**

**Tackling Inequalities** - The Council is committed to practices that protect adults and children from harm regardless of age, sex, disability, racial heritage, religious belief, sexual orientation or any other protected characteristic as covered by the Equality Act 2010.

Every child and adult has a right to participate in a safe society without any violence, fear, abuse, bullying or discrimination. Every child and adult has the right to be protected from harm, neglect, exploitation and abuse. This policy seeks to ensure that all Councillors, employees, volunteers and all those who carry out work for or with the Council recognise their responsibility in protecting children and adults at risk from abuse and neglect and working in a way that promotes and supports their best interests.

#### 2. **Purpose of report**

This report outlines the recommendation to introduce a Corporate Safeguarding policy (appendix 1).

This policy will be established in addition to the existing policies and procedures operated within the Adults, Ageing and Wellbeing, and the Children, Young People and Education Directorates.

The policy will apply to all officers, volunteers, contractors and Councillors and makes it clear how the Council undertakes its legal commitments in regard to safeguarding to children and adults.

The policy is intended to support, strengthen and provide clarity to the wider organisation in relation to the process for reporting concerns, the support available

to everyone and the responsibilities of new Key Officers ('Designated Managers') and Councillor roles across the wider Council.

### 3. Recommendations

To approve the introduction of the policy and agree that it apply to all officers, volunteers, contractors and Councillors with effect from 1 April 2024.

### 4. Background

Corporate Safeguarding is everybody's business in every Directorate within the Council. Everyone working or contracted within the Council has a responsibility to safeguard the welfare of children, young people and adults, whatever their role.

Although every organisation working with children, young people and adults should, of course, be committed to safeguarding and promoting their welfare, a number of organisations have statutory roles or duties:

- Under Part 3 of the Children Act 1989 and Part 2 of the Children Act 2004, Northumberland County Council has a duty to ensure that it undertakes its functions in a way that safeguards and promotes the welfare of children
- Under Section 17 of the Crime and Disorder Act 1998, it is Northumberland County Council's duty to ensure that every reasonable step is taken to protect adults and prevent crime and disorder when it undertakes its functions
- Part 1 of the Care Act 2014 establishes a clear legal framework for how local authorities and other statutory agencies should protect adults with care and support needs who are at risk of abuse or neglect.
- Counter Terrorism and Security Act 2015
- Domestic Abuse Act 2021

This policy reflects the Council's commitment to safeguard children and adults and to protect them from being abused. It is intended to ensure there is a clear understanding of the policies for safeguarding children and adults amongst employees, Councillors and those working on behalf of the Council and the associated referral process for reporting concerns.

Outlined within the policy are robust corporate and directorate procedures to ensure compliance with the policy and defined communication arrangements so that all are aware of the key officers in each directorate who are responsible for children and adult safeguarding issues.

All employees / workers and Councillors currently receive information and basic training regarding safeguarding however, the introduction of this policy would require a greater focus on highlighting responsibilities and the specific roles that key officers and Councillors will adopt.

The policy outlines the functions of key officers and Councillors and proposes to introduce the role of "Designated Manager". This role will deal with safeguarding children and adult's issues within each service within the Directorate. The Designated

Managers will be fully trained and will take on responsibility for acting as a key source of advice and support for other employees / workers in their Directorate on how to access advice on safeguarding issues. They will ensure local compliance is monitored and reported to the Executive Management Team (EMT).

## 5. Options open to the Council and reasons for the recommendations

Option 1 - To approve the adoption of the policy

Option 2 - To reject the adoption of the policy

Option 1 is the recommended option based on the clearly stated benefits outlined in this report including the objective of reinforcing the Council's ability to meet its statutory obligations.

## 6. Implications

<b>Policy</b>	Oversight of Corporate and HR policies and procedures
<b>Finance and value for money</b>	There are no direct financial implications associated with this report
<b>Legal</b>	Introduction of the policy would enable the Council to fulfil its statutory obligations
<b>Procurement</b>	None identified
<b>Human resources</b>	Policy would apply to all employees of the Council and may require enforcement in circumstances of non-compliance.
<b>Property</b>	None identified
<b>The Equalities Act: is a full impact assessment required and attached?</b>	Not required The policy will apply equally to all employees, workers and Councillors and will not disproportionately impact any particular group.
<b>Risk assessment</b>	The introduction of the policy would reduce / minimise safeguarding risks
<b>Crime and disorder</b>	None
<b>Customer considerations</b>	The introduction of the policy will give additional assurance to the public that there are robust arrangements in place to safeguard children and adults at risk
<b>Carbon reduction</b>	None

<b>Health and wellbeing</b>	The introduction of the policy will ensure that those working for or on behalf of the Council are confident to raise the alarm when they suspect that a person's basic physical, emotional, social or psychological needs are not being met and / or their wellbeing has been impaired.
<b>Wards</b>	N/A

**7. Appendices**

Appendix 1 – Northumberland County Council Corporate Safeguarding Policy

**8. Background papers**

[Northumberland Safeguarding Adults Board Multi-Agency Policy and Procedures](#)  
[Northumberland Children's Services Procedures Manual](#)

**9. Links to other key reports already published**

Not applicable

**10. Author and Contact Details**

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Email: [sarah.farrell@northumberland.gov.uk](mailto:sarah.farrell@northumberland.gov.uk)



## **Northumberland County Council Corporate Safeguarding Policy**

### **Purpose:**

The purpose of this document is to introduce the Council's Policy for Safeguarding Children and Adults.

The following are the objectives of the Safeguarding Policy:

- To highlight how Northumberland County Council undertakes its legal commitments in the field of safeguarding children and adults.
- To give assurance to members of the public, service users, Councillors, employees (including those employed via an agency) and people working on behalf of the Council (including volunteers, contractors, students on placement, etc) – furthermore referred to in this document as “staff/ workers” - that there are clear arrangements in place to safeguard and protect children and adults.
- To ensure that Council staff/ workers and Councillors have clear guidelines for responding to when a child or adult may be at risk of harm or their wellbeing is being adversely affected
- To ensure that everyone within the council work together to protect people from abuse or harm of any kind.

### **Scope:**

This policy relates to all children and to adults at risk over the age of 18 regardless of gender, age, ethnicity, disability, sexual orientation or religion or cultural background. By the nature of the organisation, it is inevitable that various degrees of contact with children and adults at risk will occur, and it is therefore our policy to have in place clear guidelines for safeguarding and promoting their welfare as well as protecting our staff/ workers and other adults in a position of responsibility from potential allegations of abuse.

This policy also includes the safeguarding of staff/ workers who are under 18 years and adult staff/ workers who may be at risk of harm.

### **Responsibilities:**

Every Councillor, every member of staff, every volunteer and every contracted service provider has a responsibility to adhere to the procedures and guidance set out in this policy.

## **1. Introduction**

1.1. One of Northumberland County Council's corporate priorities is to ensure that vulnerable people are protected and are able to live as independently as possible.

1.2. As a Council, we believe that every child and adult has the right to be safe from harm. The Council acknowledges its role and responsibilities to provide clear guidance for staff/ workers, Councillors, partners and those people whom we serve in this key field.

1.3. Corporate Safeguarding is everybody's business in every Directorate within the Council. While Children, Young People and Education, and Adults, Ageing and Wellbeing are the lead services for dealing with enquiries regarding allegations or concerns that children and adults may be suffering significant harm or experiencing or at risk of abuse or neglect, everyone working or contracted within the Council has a responsibility to safeguard the welfare of children, young people and adults, whatever the role of the individual.

1.4. "Safeguarding" is a wider concept than the protection of children and adults and includes promoting:

- Physical, emotional and mental health
- Protection from harm and neglect (including financial abuse)
- Education, training and leisure
- Contribution to society
- Social and economic well-being

1.5. Although every organisation working with children, young people and adults should be committed to safeguarding and promoting their welfare, a number of organisations have statutory roles or duties:

- Under Part 3 of the Children Act 1989 and Part 2 of the Children Act 2004, Northumberland County Council has a duty to ensure that it undertakes its functions in a way that safeguards and promotes the welfare of children
- Under Section 17 of the Crime and Disorder Act 1998, it is Northumberland County Council's duty to ensure that every reasonable step is taken to protect adults and prevent crime and disorder when it undertakes its functions
- Part 1 of the Care Act 2014 establishes a clear legal framework for how local authorities and other statutory agencies should protect adults with care and support needs who are at risk of abuse or neglect.
- Counter Terrorism and Security Act 2015
- Domestic Abuse Act 2021

## **2. Scope of this document**

2.1. The following are the objectives of the Safeguarding Policy:

- to highlight how Northumberland County Council undertakes its legal commitments in the field of safeguarding children and adults
- to give assurance to members of the public, service users, Councillors, employees and people working on behalf of the Council that there are clear arrangements in place to safeguard and protect children and adults
- to ensure that Council staff and Councillors have a clear understanding for recognising when a child or adult may be at risk of harm

2.2. As a Council, we believe that it is unacceptable for a child or an adult to be abused or harmed in any way. This is reflected in the following principles which form the basis of the Policy:

- Every child and adult has a right to participate in a safe society without any violence, fear, abuse, bullying and discrimination
- Every child and adult has the right to be protected from harm, exploitation and abuse
- We will put the welfare of children and adults centrally in our policies and procedures
- We will work closely in partnership with children, their parents, carers and adults and other agencies to safeguard and promote the welfare of children and adults
- We will respect the rights, wishes, feelings and privacy of children and adults by listening to them and minimising any risks that may affect them
- We will invest in preventative work and early intervention and try to avoid situations where abuse or allegations of abuse or harm may occur

### **3. Outcomes**

3.1. This policy reflects the Council's commitment to safeguard children and adults and to protect them from being abused.

3.2. We will measure the impact in order to achieve the following high level outcomes:

- a clear understanding amongst employees, Councillors and those working on behalf of the Council of the policies for safeguarding children and adults
- robust corporate and directorate procedures in place to ensure compliance with the policy introduced here
- clear and accessible communication arrangements in place across the organisation, including information about the key officers in each directorate who are responsible for children and adult safeguarding issues
- consistency between these procedures which are operational and associated protocols for safeguarding children and adults

3.3. All staff/ workers and Councillors will receive information and training regarding safeguarding.

## **4. Roles and Responsibilities**

4.1. Every member of staff/ worker, Councillor, volunteer and service provider has a responsibility in the field of safeguarding and a duty to adhere to the procedures set out in this policy.

4.2. By following the correct procedures, we will ensure that the appropriate steps are implemented to deal with any allegation or concern and ensure that services are planned and delivered in a way which safeguards children and adults, and staff and Councillors are enabled to conduct themselves safely.

4.3. This means that every directorate within the Council has a key role to play and has to take full ownership of safeguarding matters. In addition, every directorate needs to understand where safeguarding issues are most likely to arise in their particular service and ensure they adhere to this policy in managing them safely.

4.5 Clear arrangements and procedures are in place across both Children, Young People and Education, and Adults, Ageing and Wellbeing directorates to ensure that enquiries into allegations and concerns that children and adults may be suffering or at risk of suffering harm receive due consideration.

## **5. Functions of Key Officers and Councillors**

5.1. The Chief Executive has the general responsibility for ensuring that there is an effective safeguarding policy and procedures for children and adults in place and that they are implemented.

5.2. The Chief Executive is also responsible for the development of effective corporate governance and satisfying all the statutory requirements. However, there are other key officers who have safeguarding responsibilities.

5.3. The Executive Directors for Children, Young People and Education, and Adults, Ageing and Wellbeing have the final responsibility for safeguarding issues. They are responsible for ensuring that the Council has appropriate safeguarding measures in place to protect children and young people, adults and vulnerable older people and are responsible for reporting at a corporate level to Councillors on their effectiveness.

5.4. The Executive Directors are also responsible for the following:

- supervising the process of implementing, monitoring and improving the safeguarding and protection procedures for children and adults
- ensuring that there are robust reporting arrangements and processes in place for safeguarding children and adults and to report at a corporate level and to Councillors

- ensuring the effectiveness of the Northumberland Adult and Childrens Safeguarding Partnership (NCASP) making sure that lessons are learned as a result of practice and departmental reviews in respect of children and adults and that they are applied as necessary by every agency, acknowledging that the effectiveness of arrangements are dependent on the quality of the contribution of every agency
- raising the profile, supporting the policy and ensuring that the Council complies fully with the Policy for Safeguarding Children and Adults
- ensuring that every member of staff in Children, Young People and Education, and Adults, Ageing and Wellbeing understands and implements high standards in terms of identifying risks and safeguarding practices
- promoting more awareness amongst the public of issues relating to safeguarding children and adults and ensuring social work practices evolve in light of appropriate research
- raising standards in practice by means of ensuring that professional supervision, training and other opportunities to learn and reflect are available, so that staff are supported appropriately
- submitting observations, in the statutory role, to Councillors

5.5. Whilst every member of staff has a responsibility to safeguard and promote the welfare of children and adults, the Executive Directors are the Senior Officers in the Council with the final accountability for this area of work.

## **6. Councillors**

6.1. Due to the importance of safeguarding for all Councillors, it is encouraged that every Councillor attends training in respect of safeguarding children and adults. Training will be offered to all new members and an attendance list will be maintained; this will be reported as part of the performance monitoring arrangements. The training will raise awareness amongst Northumberland County Councillors of this policy and increase their understanding of the safeguarding procedures that exist within the Council.

6.2. Annual refreshers will be provided to enable Councillors to update their knowledge and understanding and enable them to respond appropriately to safeguarding issues if and when they become aware of them.

6.3. Constituents will occasionally ask for assistance with these issues or ask Councillors to intervene on their behalf. Councillors should advise the constituent to seek legal advice. It is not appropriate for Councillors to become involved as it could give rise to a conflict of interest with the Council's statutory responsibilities to safeguard children and adults, investigate and take action in respect of allegations of abuse or neglect.

6.4. If Councillors become aware of individual cases of safeguarding concerns relating to children or adults arising from work with their constituents, they have a responsibility to report these concerns to the relevant Directorate.

6.5. Councillors will receive the following information in respect of safeguarding:

- Councillors on the Family and Childrens (Education and Children’s Social Care Services) Overview and Scrutiny will have an important role in scrutinising information contained in the Executive Director of Children, Young People Annual Reports. It is also the duty of Councillors to ensure that effective corporate policies and procedures are in place and followed throughout the organisation
- Councillors on the Social Care and Health Overview and Scrutiny Committee also have an important role in scrutinising information in relation to Adults, Ageing and Wellbeing and ensuring that adults with care and support needs receive support and protection and will receive a report from the Executive Director of Adults, Ageing and Wellbeing on an annual basis which will include the annual report for the Northumberland Safeguarding Children and Adults Safeguarding Partnership
- Councillors on the Corporate Parenting Board will receive information in respect of children in care
- Councillors of the Health and Wellbeing Board will receive the annual report from NCASP
- The Executive Directors of Children, Young People and Education, and Adults, Ageing and Wellbeing will report on the work of the Council to all Councillors on an annual basis.

6.6. Any lessons from Northumberland Child Safeguarding Practice Reviews or Safeguarding Adult Reviews (SARs) will also be identified to Councillors as part of these reports

6.8. This policy is in addition to the Member’s Code of Conduct and the Officers’ Code of Conduct and the principles within both these codes of conduct should always be applied to every situation.

## **7. Designated Managers within Every Directorate**

7.1. Every Directorate within the Council will be required to nominate a minimum of one “Designated Manager” for dealing with safeguarding children and adult’s issues within each service within the Directorate.

7.2. The Designated Managers are responsible for:

- acting as a key source of advice and support for other staff/ workers in the Directorate on how to access advice on safeguarding issues.
- being familiar with Northumberland County Council’s Corporate Policy for Safeguarding Children and Adults.
- ensuring that there are effective internal procedures to deal with concerns within the directorate by working closely with Children, Young People and

Education, and Adults, Ageing and Wellbeing to achieve this, including safe storage of a record of the concern and action taken

- ensuring that the process of complying with this policy is monitored through reporting regularly to the Executive Management Team (EMT)
- attending the relevant training for Designated Managers

7.3. Any member of staff/ worker wishing to report concerns for the safety of an individual should initially and immediately contact their line manager who has responsibility for ensuring risk is minimised by promptly contacting Onecall (see section 11 below) and for sharing the concern with the Designated Manager for consideration. If the concern is regarding the Designated Manager themselves, the line manager should contact the Local Authority Designated Officer (LADO).

## **8. All Service Leads**

8.1. All Service Leads, through their Management Teams will be jointly responsible for ensuring that all the statutory requirements in terms of safeguarding and promoting the welfare of children and adults receive due consideration. This includes the quality, content and frequency of training provided and maintaining sufficient staff training records.

8.2. All Service Leads are expected to fully comply with this Corporate Policy and to adhere to the safer recruitment requirements as laid out in the NCC Recruitment Policy.

## **9. Every Line Manager**

9.1. Every Line Manager is responsible for ensuring that the staff/workers for whom they are responsible receive the safeguarding training which they need, proportionate to their responsibilities. The Learning and Organisational Development Team will incorporate Corporate Safeguarding into all relevant training. A priority will be the training of Designated Safeguarding Managers and line managers in each department.

9.2. Every member of staff/ worker and all volunteers are responsible for undertaking their duties in a manner which safeguards and promotes the welfare of children and adults. They must also act in a way which protects them against false allegations of abuse as far as possible and in accordance with this policy. They must bring issues of concern regarding the safety and welfare of children and adults to the attention of the Designated Manager in their department. Staff/ workers who feel unable to raise any identified issues with their Designated Manager should utilise the Council's Raising Concerns at Work Policy, available on the internal staff intranet.

## **10. Contractors, Sub-contractors or Other Organisations funded by or on behalf of Northumberland County Council**

10.1 Contractors, sub-contractors or other organisations funded by or on behalf of the Council are responsible for arranging the necessary checks through the Disclosure and Barring Service and for ensuring that their staff comply with

regulatory and contractual arrangements relating to safeguarding children and adults.

10.2 Some organisations are also required to undertake an annual self-assessment of safeguarding arrangements, and to report outcomes, as part of contract monitoring arrangements. It is expected that this will apply to more organisations over time.

10.3 Contractors are also responsible for informing relevant managers of the Council about any concerns they may have and to refer protection issues. Compliance with Northumberland County Council's expectations regarding safeguarding will be monitored via existing contract monitoring arrangements.

## **11.0. Clarity Regarding the Referral Process**

11.1. Any member of staff/ workers with concerns regarding the safety of an individual, or the behaviour of a colleague towards children or an adult should report their concerns to their manager who will contact Onecall on 01670 536400. After the issue has been referred to Onecall, the line manager should report the issue to the Designated Manager.

11.2. If a Councillor (or any member of the public) has concerns regarding the safety of an adult or a child they should contact Onecall immediately on 01670 536400

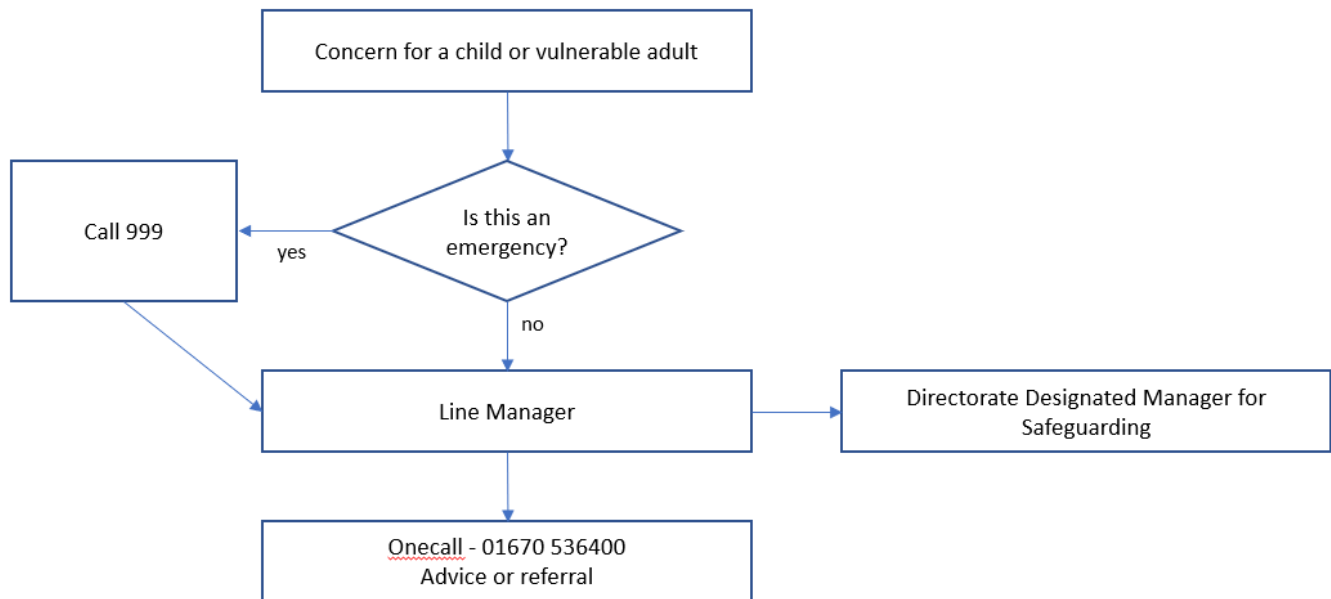
11.3. The Police must be contacted immediately if a child or adult is in immediate danger.

11.4 The referral process defined above is not intended to replace the existing safeguarding reporting arrangements established for those working in Children, Young People and Education, and Adults, Ageing and Wellbeing. Staff/ workers in these areas should follow normal reporting protocols.



## Reporting Flowchart

(for staff working outside of Children, Young People and Education, and Adults, Ageing and Wellbeing)



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## Northumberland County Council

County Council

Wednesday, 17 January 2024

### Corporate Parenting

**Report of Councillor(s)** Leader of the Council Glen Sanderson: Chair of Safeguarding Corporate Parenting Group,

**Responsible Officer(s):** Audrey Kingham, Executive Director for Children, Young People & Education

#### 1. **Link to Key Priorities of the Corporate Plan**

This report is relevant to the Tackling Inequalities priority of the NCC Corporate Plan 2023-26 in particular that children and young people have the best start in life and grow up well and that we deliver our statutory functions including being an effective Corporate Parent.

#### 2. **Purpose of report**

This report is to update and engage members on progress with implementing the Council's statutory responsibilities for corporate parenting of our cared for and care experienced children and young people.

#### 3. **Recommendations**

1. Members note the progress made in the last 12 months.
2. Members to consider how they can contribute to the whole council approach to corporate parenting.

#### **Key Issues**

1. Our ambition of embedding a whole council approach to corporate parenting is evolving. Progress during the last 12 months has been good but there is further work to be done, and we are seeking to build on these achievements by actively involving members in what we plan to do next.
2. Notable developments in the last 12 months include:

- Reviewing the Terms of Reference and meeting structure for the Safeguarding and Corporate Parenting Group that is now chaired by the Leader of the Council;
  - refreshing Northumberland's Care Leavers' Covenant that demonstrates our offer to our children and young people that is above the statutory minimum required;
  - engaging senior leaders across the council and multi-agency partners, including in the private sector;
  - participating in regional and national initiatives to broaden our Local Offer to care leavers.
3. Our aspirations as good corporate parents are set out in the recently published *Children in care and care leavers' strategy 2023-25*. Separate working groups are in place to progress actions for each priority, and monitoring takes place quarterly at MALAP (multi-agency looked after partnership) meetings, chaired by the Director of Social Care, Young People and Families.
4. While this paper outlines the progress and ambitions of what we want to develop and offer for our cared for children and care leavers, we do know that our young people think we can be good corporate parents because they tell us regularly about their experience of local authority services and in particular the support from their workers: *(Worker's name) helped support applications and areas I had struggled with* "They have helped me by helping with furniture for my flat and getting me moved in" "If I ever need any help with anything they are always there" *(Worker's name) has been amazing*".
5. External reviews of our work as corporate parents have noted good and ambitious continuous improvement of our approaches. The Ofsted ILACS inspection of 2020 stated that "Scrutiny of services and performance through .....the corporate parenting advice group (CPAG) has improved and now offers a strong forum for challenge. The CPAG actively engages with 'Voices Making Choices' (children in care council) to hear first-hand about the experiences of children who are in care, as well as those of care leavers".

A recent visit in November 2023 from the DfE National care advisor found "the leadership and management approach .... was ambitious, aspirational and I got a real sense of passion and commitment to have a better offer for care leavers across the whole service area."

#### 4. **Forward plan date and reason for urgency if applicable**

09 November 2023

#### 5. **Background**

- 5.1 When a child comes into care, the local authority becomes the Corporate Parent which means that every councillor and officer within the council, and partner agencies have a responsibility to provide care for those children as a parent would for their own child. (The Children and Social Work Act 2017). In Northumberland the Children in Care and Care Leavers' Strategy 2023-25 sets out our vision as

corporate parents which is to be a council where meeting the needs of children, young people and families is the focus so that they get the best out of life.

- 5.2 Governance of our corporate parenting arrangements in Northumberland is strong. Under new Terms of Reference, Northumberland's multi-agency looked after partnership (MALAP) provides leadership in relation to our vision and is responsible for developing, implementing and reviewing the corporate parenting strategy. MALAP is accountable to the Safeguarding and Corporate Parenting Group (SCPG) that is now chaired by the Leader of the Council. There is external scrutiny from Ofsted in the inspection of local authority children's services (or ILACS).
- 5.3 One of our flagship corporate parenting initiatives is Northumberland's Care Leaver Covenant, a national inclusion programme that supports care leavers aged 16-25 to live independently. We have had a Northumberland offer since the initiative was introduced 5 years ago, and have taken the opportunity to refresh this as the programme has engaged new partners across the North East. We are delivering services above the statutory minimum in the 5 defined areas of independent living, employment education and training, safety and security, health and finance and these are detailed in our local offer which is on the Northumberland website. We aim to achieve this through a whole council approach of responsibility for being a corporate parent sitting across the whole council and not just within children's services.
- 5.4 For employees and members there is now corporate parenting training available on Learning Together. We are encouraging employees to access the training as we work with service directors to clarify their commitment by developing a corporate parenting Promise for directorates for our care experienced children and young people.
- 5.5 Senior officers in Childrens Services are meeting with the respective member groups to further support the development of our corporate parenting responsibilities.
- 5.6 We are becoming stronger corporate parents through partnership working in the region and nationally. The North East and North Cumbria Integrated Care Board (NENC ICB) is one of 10 national pathfinders in the NHS to have signed up to the Care Leaver Covenant to design and deliver new careers for the care experienced community. Northumberland is leading the development with North Tyneside and Newcastle of the ICB Universal Family project which aims to place 250 care leavers in employment, education or training in 2024.
- 5.7 The North East Raising Aspirations Partnership (NERAP) is a higher education collaboration of 5 local universities - Durham, Newcastle, Northumbria, Sunderland and Teesside – that is committed to offering support at each institution to care-experienced students. Northumberland has participated for 10 years in NERAP's Choices Together programme for Year 10 and 11 pupils that involves a range of activities for care-experienced young people to think about their futures and how higher education can help them reach their goals. NERAP has now signed up to the Care Leaver Covenant and is working with our Virtual School careers' advisers to engage more of our looked after children into the programme, and to provide the right level of support to retain care leavers who are already following higher education courses.

- 5.8 Northumberland is a member of the relatively new Regional Care Leavers' Board and has lead responsibility for the financial stability workstream. The aim of the Regional Board is to ensure young people leaving care receive the same local offer regardless of their home authority and there are 5 different workstreams to drive this ambition across the region. Recent achievements include access to free public transport from Nexus and access to driving lessons.
- 5.9 Work continues to engage the private sector as a corporate parenting partner. Relationships are developing with Bernicia and Morgan Sindell, with expressions of interest from other local businesses. The private sector has a valuable contribution to make regarding employment and training opportunities.
- 5.10 There is clear momentum behind our ambition as good corporate parents, but there is still work to be done. Ways in which members can contribute include:
- work with local business and services to provide opportunities for our young people,
  - challenge stigma and promote positive understanding of cared for children.
  - Be visible and support our services.
  - Support and develop our care leavers covenant.
- 5.11 Overall we would ask all members to play their part in offering the care and support to our children and young people as they would as if it were their own child.

## 6. Options open to the Council and reasons for the recommendations

- Members note the progress made in the last 12 months.
- Members to consider how they can contribute to the whole council approach to corporate parenting.

## 7. Implications

<b>Policy</b>	A whole council approach to corporate parenting could be underpinned by policy to ensure our children in care and care leavers are prioritised in all service areas, for example prioritised for employment and training opportunities
<b>Finance and value for money</b>	Current work is being delivered within existing service budgets, and fixed term DfE grant funding (Pupil Premium Plus Post 16 Pilot)
<b>Legal</b>	The Corporate Parenting responsibilities of the local authority are statutorily underpinned by the Children and Social Work Act 2017
<b>Procurement</b>	The social values in procurement policy are key to sustained success
<b>Human resources</b>	Ensuring staff across the council are aware of their corporate parenting responsibilities.
<b>Property</b>	None have been identified

<b>The Equalities Act: is a full impact assessment required and attached?</b>	No - not required at this point There is consideration at a national level of making care experience/care leavers a protected characteristic, but has not progressed to date nationally
<b>Risk assessment</b>	None have been identified
<b>Crime and disorder</b>	None have been identified
<b>Customer considerations</b>	That we support our cared for and care experienced children and young people as we would our own children in line with our statutory responsibilities
<b>Carbon reduction</b>	None have been identified
<b>Health and wellbeing</b>	The physical, emotional and mental health and wellbeing of cared for children and care leavers is a priority
<b>Wards</b>	None

## 8. Background papers

8.1

Northumberland's Children in Care and Care Leavers' Strategy 2023-25

[Corporate-Parenting-Strategy-2023-25.pdf \(northumberland.gov.uk\)](#)

Link to Local Offer on the website:

[Northumberland County Council - Northumberland Care Leavers - Your Local Offer](#)

[Applying corporate parenting principles to looked after children and care leavers, statutory guidance for local authorities: DfE February 2018](#)

## 9. Links to other key reports already published

Not Applicable

## 10. Author and Contact Details

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## Northumberland County Council

County Council

Wednesday, 17 January 2024

### Northumberland Fire and Rescue Service Inspection Report

**Report of Councillor(s)** Cllr Gordon Stewart, Cabinet Member for Looking After our Communities

**Responsible Officer(s):** Graeme Binning, Chief Fire Officer, and Helen Paterson, Chief Executive

#### 1. **Link to Key Priorities of the Corporate Plan**

Delivery of Northumberland Fire and Rescue Service effectively and efficiently contributes to the delivery of all three corporate priorities.

#### 2. **Purpose of report**

His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) has undertaken a third full inspection of Northumberland Fire and Rescue Service (NFRS). The inspection commenced on 29 May 2023, with initial feedback (hot debrief) provided on 9 August 2023. The final report was received by the Service on 27 November 2023 and published on HMICFRS website on 29 November 2023. This report provides an Executive Summary.

#### 3. **Recommendations**

3.1 Council is recommended to note the outcome of the Inspection Report

#### 4. **Forward plan date and reason for urgency if applicable**

This report does not require a key decision.

#### 5. **Background**

5.1 At the time of publication, nine fire and rescue service reports had been published in round three so far. These include; Northumberland, Warwickshire, Cornwall, Merseyside, Cambridgeshire, Cheshire, Buckinghamshire, Surrey and Bedfordshire.

5.2 Overall, Northumberland has made significant improvements since the previous inspection. Key highlights are as follows:

- No Causes of Concern.
- No Inadequate judgement (or grades).
- No Requires Improvement.
- 7 Adequate.
- 4 Good.
- 12 Areas for Improvement (52 percent reduction since the second round of inspections).

Direction of travel														
HMICFRS Round 1 Performance 2018/19				HMICFRS Round 2 Performance 2021/22				HMICFRS Round 3 Performance 2023/25						
Outstanding	Good	Requires Improvement	Inadequate	Outstanding	Good	Requires Improvement	Inadequate	Outstanding	Good	Adequate	Requires Improvement	Inadequate	Requires Improvement	Inadequate
	Responding to major and multi-agency incidents	Understanding fires and other risks			Protecting the public through fire regulation	Understanding fires and other risks			Preventing fires and other risks	Understanding fires and other risks				
		Protecting the public through fire regulation			Responding to major and multi-agency incidents	Making best use of resources			Future affordability	Responding to fires and other emergencies				
		Making best use of resources				Ensuring fairness and promoting diversity			Promoting the right values and culture	Protecting the public through fire regulation				
		Ensuring fairness and promoting diversity				Managing performance and developing leaders			Getting the right people with the right skills	Responding to major and multi-agency incidents				
		Managing performance and developing leaders				Preventing fires and other risks				Making best use of resources				
		Preventing fires and other risks				Responding to fires and other emergencies				Ensuring fairness and promoting diversity				
		Responding to fires and other emergencies				Future affordability				Managing performance and developing leaders				
		Future affordability				Promoting the right values and culture								
		Promoting the right values and culture				Getting the right people with the right skills								
		Getting the right people with the right skills												

5.3 Of all nine services, Northumberland has demonstrated the most significant improvement by far, with many of the nine services seeing a deterioration in performance.

5.4 Of special note is the judgement that Northumberland is good at promoting the right values and culture. The report states:

“The service has well-defined values, which staff understood. We found staff at all levels of the service showing behaviours that reflect service values. Recent changes in both the fire and rescue leadership team and the county council leadership team, has meant a committed focus on values and culture throughout the organisation.” (page 33)

5.5 In addition, inspectors state:

“In response to our survey 94 percent of people (119 of 126) felt they are treated with respect by the people they work with.” (page 33)

5.6 HMICFRS is commissioned to undertake inspections of fire and rescue services in England across the three areas of effectiveness, efficiency and people. Supporting these three areas are 11 key questions or diagnostics, against which each service is judged. These questions have remained consistent across all three full inspections,

while judgments have increased from four to five. ***The inspectorate has emphasised that a reduction in grade, particularly from good to adequate does not necessarily mean there has been a reduction in performance, unless this is stated in the report.***

5.7 During the first full inspection, Northumberland Fire and Rescue Service received 10 Requires Improvement judgments and 1 Good judgement against the 11 diagnostics. The Service also received 24 Areas for Improvement.

5.8 During the second full inspection, Northumberland Fire and Rescue Service received 9 Requires Improvement judgements and 2 Good judgements against the 11 diagnostics. The Service also received a Cause of Concern, and 25 Areas for Improvement.

## 6. Options open to the Council and reasons for the recommendations

6.1 Not applicable. The report is presented for information.

## 7. Implications

<b>Policy</b>	Areas for improvement identified in the report may require changes in policy.
<b>Finance and value for money</b>	There are no direct financial implications associated with this report. The Service was assessed as being Good at making the Service affordable now and in the future.
<b>Legal</b>	. Independent inspection of fire and rescue authorities in England is delivered by His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS). The chief fire and rescue inspector and inspectors of fire and rescue authorities in England have powers of inspection given to them by the Fire and Rescue Services Act 2004, as amended by the Policing and Crime Act 2017
<b>Procurement</b>	Not applicable.
<b>Human resources</b>	Not Applicable
<b>Property</b>	Not applicable.
<b>The Equalities Act: is a full impact assessment required and attached?</b>	No - not required at this point No decisions are required and therefore no EIA has been produced.
<b>Risk assessment</b>	No risks identified.

<b>Crime and disorder</b>	Not applicable.
<b>Customer considerations</b>	HMICFRS undertakes independent inspections of Fire and Rescue Service on behalf of the public.
<b>Carbon reduction</b>	Not applicable.
<b>Health and wellbeing</b>	The Service was assessed as Good at preventing fires and risk.
<b>Wards</b>	(All Wards);

**8. Background papers**

[Fire & Rescue Service 2023-25 Effectiveness, efficiency and people \(An inspection of Northumberland Fire and Rescue Service\)](#)

**9. Links to other key reports already published**

Not applicable.

**10. Author and Contact Details**

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## Northumberland County Council

### Council

Wednesday 17 January 2024

### Approval of the Council Tax Support Scheme 2024-25

**Report of Councillor(s)** Richard Wearmouth, Deputy Leader and Cabinet Member for Corporate Resources

**Responsible Officer(s):** Jan Willis, Executive Director for Resources & Transformation (S151)

#### 1. **Link to Key Priorities of the Corporate Plan**

The Council Tax Support Scheme is relevant to the 'Achieving Value for Money' and "Tackling Inequalities" priorities in the Corporate Plan by ensuring financial prudence and providing residents with the building blocks of a good life.

#### 2. **Purpose of report**

The purpose of this report is to seek approval for the local Council Tax Support Scheme for 2024-25 to continue to provide support at a maximum level of 92% of council tax liability.

#### 3. **Recommendations**

- 3.1 Council is recommended to approve the Council Tax Support Scheme, attached to the published report on the Council website, to be adopted as the Council's local scheme for 2024-25.

#### 4. **Forward plan date and reason for urgency if applicable**

The 2024-25 scheme needs to be urgently approved to allow the Council Tax Base to be set for 2024-25.

## 5. Background

- 5.1 A local Council Tax Support Scheme for pensioners and working age claimants needs to be agreed by 31 January 2024.
- 5.2 The pensioner element of the Scheme is prescribed and continues to support the pensioner element of the caseload, up to a maximum of 100% of their council tax liability.
- 5.3 The working age element of the Scheme is for each Council to decide annually.
- 5.4 The Council Tax Scheme for 2023-24 had a maximum level of support for working age claimants of 92%. This means that all working age claimants pay a minimum of 8% of their property's council tax charge.
- 5.5 The cost of the Council Tax Support Scheme for 2023-24 is forecast to be £26,762,637. Any cost arising from a more generous working age support scheme would need to be funded from the Council's revenue budget.
- 5.6 As part of the Government's response to the COVID-19 pandemic new funding was provided to the Council to assist economically vulnerable people and households. The strong expectation from Government was that the funding was used to provide all working age council tax support recipients with £150 for 2020-21, £300 in 2021-22, £200 in 2022-23 and a further reduction in their annual council tax liability for 2023-24 of £200 (£175 funded by the Council and £25 funded by Central Government). This was applied to all council tax support claimants in 2023-24 and used to fund new claimants coming onto the scheme. As a result, 12,801 claimants had no council tax liability for 2023-24 and 5,964 claimants had their liability reduced by £200.
- 5.7 The cost of the scheme will vary during the financial year and is dependent upon the number of claimants and their individual and family circumstances and on the level of council tax that is set for 2023-24.
- 5.8 The proposal for the local scheme for 2024-25 is to continue with the 2023-24 scheme unchanged. That is, the maximum level of support for working age claimants will be 92%. The proposed local scheme is attached as Appendix 1 to this report.
- 5.9 No consultation is required for the proposed 2024-25 scheme as there are no changes being made.
- 5.10 The Council Tax Support Scheme has an impact on the council tax, tax base calculation and that report is due for approval by Cabinet (who have delegated powers to approve it) on 10 October 23 and Full Council on 1 November 2023.
- 5.11 The figures set out in Appendix 1 that apply for allowances, premiums and non-dependant deductions are amended annually in-line with up-ratings notified by the Department for Work & Pensions and Department for Levelling Up, Housing and Communities and will be amended in the 2024-25 scheme when they are available later in the financial year.

- 5.12 With effect from 1 April 2013 each local authority has been required to have its own local Council Tax Support Scheme for pensioner and working age claimants on low incomes. Prior to 2013 assistance for council tax liability was provided via a national council tax benefit scheme.
- 5.13 For the period 1 April 2013 to 31 March 2019 the annual Council Tax Support Scheme for Northumberland maintained the support offered by the previous national Council Tax Benefit Scheme. That scheme had supported both pensioner and working age claimants up to a maximum of 100% council tax support.
- 5.14 Once a Council's local scheme has been established any amendments or changes to the scheme for subsequent years require statutory consultation.
- 5.15 Prior to the 2019-20 scheme being approved, which saw the first reduction in the level of support for working age claimants from 100% to 92%, a comprehensive consultation exercise was carried out covering the period 24 September to 2 November 2018.
- 5.16 The Council Tax Support caseload is currently 24,840 claimants. This is made up of 9,856 who are of pensioner age and 14,984 who are working age.
- 5.17 Of the 12 North East Local Authorities only Durham has a more generous council tax support scheme in place as they have continued to support working age claimants up to 100%. South Tyneside have the lowest level of support in the region with a 70% maximum level of support (although this does support their vulnerable claimants up to 85%). The following table illustrates the current (2023-24) support schemes being administered by the 12 North East Authorities:

<b>Local Authority</b>	<b>Minimum Payment</b>	<b>Maximum Support level</b>
Durham	0%	100%
Darlington	20%	80%
Gateshead	8.5%	91.5%
Hartlepool	12%	88%
Middlesbrough	Have an income banded scheme with varying levels of support from 90% to 23%	90% with reducing levels down to 23%
Newcastle	Have an income banded scheme with varying levels of support from 100% to 25%	100% with reducing levels down to 25%
North Tyneside	15%	85%
Northumberland	8%	92%
Redcar and Cleveland	17.50%	82.5%

South Tyneside	30% or 15% if vulnerable	70% or 85% if vulnerable
Stockton	Have an income banded scheme with varying levels of support from 100% to 25%	100% with reducing levels down to 25%
Sunderland	8.50%	91.5%

5.18 The Council has powers under the Council Tax Discount Policy to reduce the amount of council tax payable under Section 13A (1)(c) of the Local Government Finance Act 2012. This discretion can be exercised in particular cases, or, by determining a class of cases and can reduce the council tax liability to nil.

## 6. Options open to the Council and reasons for the recommendation.

- 6.1 A local Council Tax Support Scheme for pensioners and working age claimants needs to be agreed by 31 January 2024.
- 6.2 If not agreed the Council must approve an alternative scheme would require full consultation with all stakeholders
- 6.3 6.3 No consultation is required for the proposed 2024-25 scheme as there are no changes being made.

## 7. Implications

<b>Policy</b>	The Council Tax Support Scheme for 2024-25 needs to be approved by full County Council by 31 January 2024. The scheme contributes 'Achieving Value for Money' and "Tackling Inequalities" priorities in the Corporate Plan by ensuring financial prudence and providing residents with the building blocks of a good life
<b>Finance and value for money</b>	The Council Tax Support Scheme governs the level of financial support provided to claimants on low incomes to assist them in meeting their council tax obligations. Council Tax contributes towards the cost of funding all Council services
<b>Legal</b>	Section 13A of the Local Government Finance Act 1992 ("the 1992 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 billing authority considers are in financial need. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 ("the 2012 Regulations") prescribe matters which must be included in such a scheme in addition to those matters which must be included in such a scheme by virtue of paragraph 2 of



	Schedule 1A to the 1992 Act. A local scheme needs to be approved by 31 January in the year preceding its implementation. Statutory consultation is required where there are proposed changes to an existing scheme. No consultation is required as there are no changes in the proposed scheme.
<b>Procurement</b>	No implications
<b>Human resources</b>	No implications
<b>Property</b>	No implications
<b>The Equalities Act: is a full impact assessment required and attached?</b>	No - not required at this point An Equality Impact Assessment was carried out for the changes that were made for the Council Tax Support Scheme for 2019-20. No further changes are proposed for the 2024-25 scheme and as a result no further equality impact assessment is required to be carried out.
<b>Risk assessment</b>	Collecting council tax from working age claimants is difficult. Payment over 12 months will be encouraged for working age claimants in order to assist with the charge and minimise monthly payments during the financial year.
<b>Crime and disorder</b>	No implications
<b>Customer considerations</b>	The Council currently has 24,840 claimants receiving council tax support. Of these 14,984 are of working age and their level of support will remain the same under this proposal although the actual amount of council tax payable will increase.
<b>Carbon reduction</b>	No implications
<b>Health and wellbeing</b>	Providing residents with the building blocks of a good life by ensuring they are more financially secure
<b>Wards</b>	All wards are affected by this proposal

## 8. Background papers

County Council Meeting on 2 November 2022  
 County Council Minutes from 2 November 2022  
 NCC Council Tax Support Scheme 2023-24

## 9. Links to other key reports already published

N/A

**10. Author and Contact Details**

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# Council Tax Support Scheme

2024/25



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## Part 1 - Introduction

### 1.— Citation, commencement and application

- (1) This scheme may be cited as the Northumberland County Council, Council Tax Support Scheme 2024/25 and comes into effect on 1 April 2024.
- (2) This scheme applies in relation to the billing authority in England known as Northumberland County Council.
- (3) This Council Tax Support Scheme is implemented by Northumberland County Council and is intended to assist people in financial need, by the award of support in their council tax liability. The Government has prescribed that the support given to pensioners will not be any less than they would have received under the previous Council Tax Benefit provisions.
- (4) The scheme in respect of pension age applicants is defined by Central Government within the following:
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
  - Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012;
  - Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
  - Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2013;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) (No. 2) Regulations 2014
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2015;
  - The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Amendment) Regulations 2016;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2017;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2018;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2020;
  - The Council Tax Reduction Schemes (Amendment) (England) Regulations 2021
  - The Council Tax Reduction Schemes (Amendment) (England) (Amendment) Regulations 2021;
  - The Council Tax Reduction Schemes (Amendment) (England) (Amendment) Regulations 2022;
  - The Council Tax Reduction Schemes (Amendment) (England) (Amendment) Regulations 2023
  - The Council Tax (Demand Notices and Reduction Schemes) (England) (amendment) Regulations 2022
  - and
  - Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012)
- (5) For those who have reached the qualifying age for state pension credit, the Council has resolved to enhance the government scheme (as defined by the Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012) to disregard in full the following:
  - a war disablement pension;
  - a war widow's pension or war widower's pension;
  - 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 guaranteed income payment;
  - 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;
  - 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;
  - 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.

**The provisions outlined above, enhance the Central Government's scheme for Pension age applicants**



- (6) The incomes outlined within paragraph (5) shall also be disregarded in full for all persons who are not pensioners.

## PART 2 Interpretation

### 2.— Interpretation

- (1) In this scheme—

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

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

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

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

**“alternative maximum council tax Support”** 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 Support under this scheme;

**“approved blood scheme”** means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products

**“assessment period”** means—

(a) in relation to pensioners—

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

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

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

**“attendance allowance”** means—

(a) an attendance allowance under Part 3 of the SSCBA;

(b) an increase of disablement pension under section 104 or 105 of that Act;

(c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or

(d) any payment based on need for attendance which is paid as part of a war disablement pension;

**“the authority”** means 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;

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

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

are consumed in that accommodation or associated premises;

**“care home”** has the meaning given by section 3 of the Care Standards Act 2000 and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 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 or a residential care home within the meaning of Article 10 of that Order;

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

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

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

**“child disability payment”** has the meaning given by regulation 2 of the DACYP Regulations;

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

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

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

**“contributory employment and support allowance”** means a contributory allowance under Part 1 of the Welfare Reform Act 2007(d) as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012(e) that remove references to an income-related allowance and a contributory allowance under Part 1 of the Welfare Reform Act 2007 as that Part has effect apart from those provisions;

**“council tax benefit”** means council tax benefit under Part 7 of the SSCBA;

**“couple”** has the meaning given by paragraph 4;

**“DACYP Regulations”** means the Disability Assistance for Children and Young People (Scotland) Regulations 2021

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

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

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

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

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

**“earnings”** has the meaning given by paragraph 41, 44, 51 or 53 as the case may be;

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

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

**“employed earner”** is to be construed in accordance with section 2(1)(a) of the SSCBA 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 known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

**“employment zone”** means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999 and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

**“enactment”** includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament or the National Assembly for Wales;

**“extended support”** means support under this scheme for which a person is eligible under Part 12 (extended support);

**“extended support period”** means the period for which a person is in receipt of extended support in accordance with paragraph 89, 96 or 101;

**“extended support (qualifying contributory benefits)”** means support 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;

**“the Grenfell Tower charitable funds”** means the funds identified in the document entitled “Charity Commission for England and Wales - Grenfell Tower charitable funds update - 29th January 2019”;

**“the Grenfell Tower Residents’ Discretionary Fund”** means the £5 million fund announced on 16th June 2017 and administered by Westminster City Council for the benefit of households affected by the fire at Grenfell Tower on 14th June 2017;

**“Grenfell Tower support payment”** means any payment made by the council of the Royal Borough of Kensington and Chelsea to an individual as a result of the fire at Grenfell Tower on 14th June 2017”

**“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;

**“historical child abuse payment”** means a payment made under:

- (a) Part 1 of the Historical Institutional Abuse (Northern Ireland) Act 2019;
- (b) Part 4 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021

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

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

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

**“independent hospital”**—

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

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

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

**“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;

**“the London Emergencies Trust”** means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017;

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

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

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

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

**“main phase employment and support allowance”** means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007 or the applicant is a member of the work-related activity group except in Part 1 of Schedule 3;

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

**“maximum council tax support amount”** means the amount determined in accordance with paragraph 29 or 29A;

**“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 council tax liability”** means 100% of council tax liability less discounts and exemptions that apply;

**“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; and

(ii) “qualifying individuals” means individuals who have been, or without the assistance might otherwise be—

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

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

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

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

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

**“parental bereavement leave”** means leave under section 80EA of the Employment Rights Act 1996;

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

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

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

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

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

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

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

“**pensioner**” has the meaning given by paragraph 3(2)(a);

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

“**person treated as not being in Great Britain**” has the meaning given by paragraph 21;

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

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

“**personal pension scheme**” means—

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

(b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988 or a substituted contract within the meaning of section 622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004;

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

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

“**polygamous marriage**” means any marriage to which paragraph 5 applies;

“**qualifying person**” means—

(a) a person in respect of whom payment has been made from the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents’ Discretionary Fund, the Windrush Compensation Scheme or the London Bombings Relief Charitable Fund; or

(b) a person who has received a Grenfell Tower support payment;

“**qualifying contributory benefit**” means — (a) severe disablement allowance;

(a) incapacity benefit;

(b) 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 the Scottish

Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund”;

“**support week**” means a period of seven consecutive days beginning with a Monday and ending with a Sunday;

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

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

“**remunerative work**” has the meaning given by paragraph 10;

“**rent**” means “**eligible rent**” to which regulation 12 of the Housing Benefit (Persons who have attained

the qualifying age for state pension credit) Regulations 2006 refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

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

“**the Scottish Infected Blood Support Scheme**” means the scheme of that name administered by the Common Services Agency (constituted under section 10 of the National Health Service (Scotland) Act 1978)

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

“**Scottish basic rate**” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;

“**Scottish taxpayer**” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998;

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

“**self-employment route**” means assistance in pursuing self-employed earner’s employment whilst participating in—

(a) an employment zone programme;

(b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973 (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (functions in relation to training for employment, etc.); or

(c) the Employment, Skills and Enterprise Scheme;

“**Service User**” references in this scheme to an applicant participating as a service user are to

(a) a person who is being consulted by or on behalf of—

(i) the Secretary of State in relation to any of the Secretary of State’s functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person; or

(b) the carer of a person consulted as described in sub-paragraph (a) where the carer is not being consulted as described in that sub-paragraph

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

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

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

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

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

“**statutory parental bereavement pay**” means a payment to which a person is entitled in accordance with section 171ZZ6 of the Social Security Contribution and Benefits Act 1992

“**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, or is training as a teacher;

“**the Trusts**” (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane

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

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

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

“**war disablement pension**” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003;

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

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

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

“**water charges**” means—

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

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002,

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

“**the We Love Manchester Emergency Fund**” means the registered charity of that name (number 1173260) established on 30th May 2017;

“**the Windrush Compensation Scheme**” means—

(a) the scheme of that name operated by the Secretary of State for the purpose of compensating individuals who have suffered loss in connection with being unable to demonstrate their lawful status in the United Kingdom; and

(b) the policy entitled “Windrush Scheme: Support in urgent and exceptional circumstances” which was operated by the Secretary of State for the purpose of compensating individuals who, for urgent and exceptional reasons, required support in advance of the scheme referred to in paragraph (a) of this definition becoming operational;

“**Windrush payment**” means a payment made under the Windrush Compensation Scheme (Expenditure) Act 2020;

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

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

- (2) In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny must be disregarded if it is less than half a penny and must otherwise be treated as a whole penny.
- (3) For the purpose of this scheme, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—
  - (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid because of a reduction in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995 (circumstances in which a jobseeker’s allowance is not payable);
  - (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or
  - (c) in respect of which an income-based jobseeker’s allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions).
- (4) For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—
  - (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare

Reform Act 2007 (disqualification); or

(b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.

- (5) For the purposes of this scheme, two persons must be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.
- (6) In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002 (small amounts of state pension credit).
- (7) References in these Regulations to an applicant participating as a service user are to-
- (a) a person who is being consulted by or on behalf of -
    - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
    - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
  - (aa) a person who is being consulted by or on behalf of -
    - (i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or
    - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions,in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person;
- (b) the carer of a person consulted as described in sub paragraph (a) or (aa) where the carer is not being consulted as described in that sub-paragraph.

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

- (1) This scheme applies to—
- (a) pensioners who fall within any of classes A to C; and
  - (b) persons who are not pensioners who fall within any of classes D to F.
- (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.

### **4.— Meaning of “couple”**

- (1) In this scheme “couple” means—
- (a) a man and woman who are married to each other and are members of the same household;



- (b) a man and woman who are not married to each other but are living together as if they were a married couple or civil partners;
- (c) two people of the same sex who are married or civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not married or civil partners of each other but are living together as if they were married or civil partners.

- (2) Two people of the same sex are to be treated as living together as if they were married or civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.

#### **5.— Polygamous marriages**

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

#### **6.— Meaning of “family”**

- (1) In this scheme “family” means—
  - (a) a couple;
  - (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
  - (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.
- (2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).
- (3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—
  - (a) on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, or has an award of universal credit;
  - (b) a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies; or
  - (c) entitled to an award of universal credit

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

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

#### **8.— Households**

- (1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or

young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

- (2) A child or young person is not to be treated as a member of the applicant's household where he is—
- (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of that Act, or section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained)”;
  - or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
  - (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
  - (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009 or the Adoption (Northern Ireland) Order 1987.
- (3) Subject to 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 support week where—
- (a) that child or young person lives with the applicant for part or all of that support week; and
  - (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.
- (5) In this paragraph “relevant enactment” means—
- (a) the Army Act 1955;
  - (b) the Air Force Act 1955;
  - (c) the Naval Discipline Act 1957;
  - (d) the Matrimonial Proceedings (Children) Act 1958;
  - (e) the Social Work (Scotland) Act 1968;
  - (f) the Family Law Reform Act 1969;
  - (g) the Children and Young Persons Act 1969;
  - (h) the Matrimonial Causes Act 1973;
  - (i) the Children Act 1975;
  - (j) the Domestic Proceedings and Magistrates' Courts Act 1978;
  - (k) the Adoption and Children (Scotland) Act 2007;
  - (l) the Family Law Act 1986;
  - (m) the Children Act 1989;
  - (n) the Children (Scotland) Act 1995; (na) the Children's Hearings (Scotland) Act 2011(c); and
  - (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## 9.— Non-dependants

- (1) In this scheme, “non-dependant” means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.
- (2) This paragraph applies to—
- (a) any member of the applicant's family;
  - (b) if the applicant is polygamously married—
    - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—
      - (aa) party to such a marriage other than the applicant's partner; and
      - (bb) any child or young person who is a member of his household and for whom he or his partner or

another party to the polygamous marriage is responsible; or

(ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;

(c) a child or young person who is living with the applicant but who is not a member of his household by virtue of paragraph 8 (households);

(d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);

(e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant's partner in respect of the occupation of the dwelling;

(f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

(3) Excepting persons to whom sub-paragraph (2)(a) to (c) and (f) refer, a person to whom any of the following paragraphs applies is a non-dependant—

(a) a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either—

(i) that person is a close relative of his or his partner; or

(ii) the tenancy or other agreement between them is other than on a commercial basis;

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

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

## 10.— Remunerative work

(1) Subject to the following provisions of this paragraph, a person must be treated for the purposes of this scheme as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to sub-paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard must be had to the average of hours worked over—

(a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);

(b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of sub-paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work must be disregarded in establishing the average hours for which he is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard must be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

(5) A person must be treated as engaged in remunerative work during any period for which he is absent from work referred to in sub-paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any support 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, shared parental leave” parental bereavement leave or adoption leave, or is absent from work because he is ill.
- (8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—
  - (a) a sports award has been made, or is to be made, to him; and
  - (b) no other payment is made or is expected to be made to him.

## PART 3 Procedural matters

### 11. Procedure for support applications and appeals against support decisions

Schedule 1 contains provisions about the procedure—

- (a) by which a person may apply for support 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 support under section 13A(1)(c) of the 1992 Act.

## PART 4 Classes of person entitled to support under this scheme

### 12.— Classes of person entitled to support under this scheme

- (1) The classes of person described in paragraphs 13 to 18 are entitled to support under this scheme.
- (2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

### 13. Class A: pensioners whose income is no greater than the applicable amount

On any day class A consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount, and
- (f) who has made an application.

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

On any day class B consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support 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 support in respect of the day in the applicant's case; and
  - (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.

### 15.— Class C: alternative maximum council tax support - pensioners

(1) On any day class C consists of any person who is a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support 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 support in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies.
- (3) Sub-paragraph (2) applies to any other resident of the dwelling who—
  - (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
  - (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
  - (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
    - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act (persons disregarded for the purposes of discount), falls to be disregarded for the purposes of discount; or
    - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
  - (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
  - (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

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

- (1) 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 19A (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax support amount can be calculated;
  - (d) who does not fall within a class of person not entitled to support under this scheme;
  - (e) whose income (if any) for the relevant week is less than his applicable amount, and
  - (f) who has made an application.

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

- (1) 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 19A (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax support amount can be calculated;
  - (d) who does not fall within a class of person not entitled to support 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 support in his case; and
    - (ii) amount B is  $2 \frac{6}{7}$  per cent of the difference between his income for the relevant week and his applicable amount, and
  - (g) who has made an application.

**18.— Class F: alternative maximum council tax support -persons who are not pensioners**

- (1) On any day class F 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 19A (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
  - (c) in respect of whom a maximum council tax support amount can be calculated;

- (d) who does not fall within a class of person not entitled to support under this scheme;
  - (e) who has made an application; and
  - (f) in relation to whom the condition in subparagraph(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 person in question in respect of the dwelling and there is an alternative maximum council tax support 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) Subparagraph (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; and
  - (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 for the support is a member of that couple or of that marriage and-
    - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount; or
    - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
  - (d) is not a person who jointly with the applicant for support 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.

**19.— Periods of absence from a dwelling - pensioners**

- (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 in Great Britain;
    - (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 within Great Britain 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;
    - (iii) that period is unlikely to exceed 13 weeks; and
  - (c) a period of absence within Great Britain 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 and
  - (d) subject to sub-paragraphs (2F), (3C), (3E) and (3G) and where sub-paragraph (2E) applies, a period of absence outside Great Britain not exceeding 4 weeks, beginning with the first day of that absence from Great Britain 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 resides is not let or sub-let; and
- (iii) the period of absence from Great Britain is unlikely to exceed 4 weeks.

(2A) The period of 13 weeks referred to in sub-paragraph (2)(b) shall run or continue to run during any period of absence from Great Britain.

(2B) Where:

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 13 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(b).

(2C) The period of 52 weeks referred to in sub-paragraph (2)(c) shall run or continue to run during any period of absence from Great Britain.

(2D) Where:

- (a) a person returns to Great Britain after a period of absence from Great Britain (period A);
- (b) that person has been absent from the dwelling, including any absence within Great Britain, for less than 52 weeks beginning with the first day of absence from that dwelling; and
- (c) at the outset of, or during, period A, period A ceased to be treated as a period of temporary absence, then, any day that follows period A and precedes the person's return to the dwelling, shall not be treated as a period of temporary absence under sub-paragraph (2)(c).

(2E) This sub-paragraph applies where:

- (a) a person is temporarily absent from Great Britain;
- (b) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.

(2F) If the temporary absence referred to in sub-paragraph (2)(d) is in connection with the death of:

- (a) the person's partner or a child or young person for whom the person or the person's partner is responsible;
  - (b) the person's close relative;
  - (c) the close relative of the person's partner; or
  - (d) the close relative of a child or young person for whom the person or the person's partner is responsible,
- then the period of 4 weeks in the opening words of sub-paragraph (2)(d) may be extended by up to 4 further weeks if the relevant authority considers it unreasonable to expect the person to return to Great Britain within the first 4 weeks (and the reference in sub-paragraph (iii) of that paragraph to a period of 4 weeks shall, where the period is extended, be taken as referring to the period as so extended).

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

- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
  - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
  - (ii) in premises approved under section 13 of the Offender Management Act 2007, or is detained in custody pending sentence upon conviction;
- (b) is resident in a hospital or similar institution as a patient;
- (c) is undergoing, or whose partner or dependent child is undergoing, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
- (d) is following, a training course;
- (e) is undertaking medically approved care of a person;
- (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 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.

- (3A) This sub-paragraph applies to a person (“P”) who is:
- (a) detained in custody on remand pending trial;
  - (b) detained pending sentence upon conviction; or
  - (c) as a condition of bail required to reside—
    - (i) in a dwelling, other than a dwelling P occupies as P’s home; or
    - (ii) in premises approved under section 13 of the Offender Management Act 2007(7), and who is not also detained in custody following sentence upon conviction.
- (3B) This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a member of Her Majesty’s forces posted overseas, a mariner or a continental shelf worker;
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3C) Where sub-paragraph (3B) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence from Great Britain is unlikely to exceed 26 weeks.
- (3D) This sub-paragraph applies where—
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (b), (c), (g) or (j) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3E) Where sub-paragraph (3D) applies, a period of absence from Great Britain not exceeding 26 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 26 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.
- (3F) This sub-paragraph applies where:
- (a) a person is temporarily absent from Great Britain;
  - (b) the person is a person described in any of paragraphs (a), (d), (e), (f), (h) or (i) of sub-paragraph (3);
  - (c) immediately before that period of absence from Great Britain, the person was not absent from the dwelling.
- (3G) Where sub-paragraph (3F) applies, a period of absence from Great Britain not exceeding 4 weeks, beginning with the first day of absence from Great Britain, shall be treated as a period of temporary absence where and for so long as:
- (a) the person intends to return to the dwelling;
  - (b) the part of the dwelling in which he usually resided is not let or sub-let;
  - (c) the period of absence is unlikely to exceed 4 weeks, or in exceptional circumstances, is unlikely substantially to exceed that period.”;
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983, or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and
  - (b) on temporary release from detention in accordance with Rules made under the provisions of the

Prison Act 1952 or the Prisons (Scotland) Act 1989.

- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he 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 (3A), 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—
- “continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any of the activities mentioned in section 11(2) of the Petroleum Act 1998;
- “designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;
- “mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel, where—
- (a) the employment in that capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
  - (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;”;
- “medically approved” means certified by a medical practitioner;
- “member of Her Majesty’s forces posted overseas” means a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006(10)), who is absent from the main dwelling because the person has been posted outside of Great Britain to perform the duties of a member of Her Majesty’s regular forces or reserve forces;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;”
- “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.

#### **19A.0 Periods of absence from a dwelling - persons who are not pensioners**

- (1) A person is not absent from a dwelling in relation to any day which falls within a period of temporary absence from that dwelling.
- (2) In sub-paragraph (1), a “period of temporary absence” means
  - (a) a period of absence not exceeding 13 weeks, beginning with the first whole day on which a person resides in residential accommodation where and for so long as—
    - (i) the person resides in that accommodation;
    - (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
    - (iii) that period of absence does not form part of a longer period of absence from the dwelling of more than 52 weeks,where he has entered the accommodation for the purpose of ascertaining whether it suits his needs and with the intention of returning to the dwelling if it proves not to suit his needs;
  - (b) a period of absence not exceeding 13 weeks, beginning with the first whole day of absence from the dwelling, where and for so long as:

- (i) the person intends to return to the dwelling;
- (ii) the part of the dwelling in which he usually resided is not let or sub-let; and
- (iii) that period is unlikely to exceed 13 weeks; and
- (c) a period of absence not exceeding 52 weeks, beginning with the first whole day of that absence, where and for so long as:
  - (i) the person intends to return to the dwelling;
  - (ii) the part of the dwelling in which he usually resided is not let or sub-let;
  - (iii) the person is a person to whom sub-paragraph (3) applies; and
  - (iv) the period of absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

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

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

(4) This sub-paragraph applies to a person who is

- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983 (as amended by the Mental Health (Discrimination) Act 2013), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986); and
- (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952 or the Prisons (Scotland) Act 1989.

(5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—

- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he 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

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

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

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

- (1) The class of person described in this paragraph consists of any person treated as not being in Great Britain.
- (2) Except where a person falls within sub-paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.
- (4) For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with—
  - (a) regulation 13 of the EEA Regulations;
  - (aa) regulation 14 of the EEA Regulations but only in a case where the right exists under that regulation where the person is -
    - (i) a jobseeker for the purpose of the definition of a ‘qualified person’ in regulation 6(1) of those regulations, or,
    - (ii) a family member (within the meaning of regulation 7 of those regulations) of such a jobseeker
  - (b) regulation 16 of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph 5 of that regulation.
- (4A) For the purposes of paragraph (3), a right to reside does not include a right which exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—
  - (a) article 3 (grant of leave to EEA and Swiss nationals) of the Immigration (European Economic Area Nationals) (EU Exit) Order 2019 made under section 3A of that Act;
  - (b) Appendix EU to the immigration rules made under section 3(2) of that Act; or
  - (c) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.”;
- (5) A person falls within this sub-paragraph if the person is—
  - (za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971(8), where such leave is granted by virtue of—
    - (i) the Afghan Relocations and Assistance Policy; or
    - (ii) the previous scheme for locally employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);
  - (zb) a person in Great Britain not coming within sub-paragraph (za) or (e)(iv) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021
    - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
    - (b) a family member of a person referred to in sub-paragraph (a);
    - (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;
    - (ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (4A)(b), provided that the relevant person of Northern Ireland falls within paragraph (5)(a), or would do so but for the fact that they are not an EEA national;
    - (cb) a frontier worker within the meaning of regulation 3 of the Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2020(7);
    - (cc) a family member of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971;

- (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<sup>1</sup> where that leave is—
  - (i) discretionary leave to enter or remain in the United Kingdom,
  - (ii) leave to remain under the Destitution Domestic Violence concession which came into effect on 1st April 2012, or
  - (i) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005.
- (f) a person who has humanitarian protection granted under those rules;
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;
- (h) in receipt of income support or on an income-related employment and support allowance or
- (ha) in receipt of an income-based jobseeker's allowance and has a right to reside other than a right to reside falling within paragraph (4).

#### **Transitional provision**

The amendment in regulation 21(5) of this policy (or 2(4) for the purposes of SI3312/2014) does not apply to a person who, on 31<sup>st</sup> March 2015 -

- (a) is liable to pay council tax at a reduced rate by virtue of a council tax support under an authority's scheme established under section 13A(2) of the Act; and
- (b) is entitled to an income-based jobseekers' allowance, until the first of the events in paragraph (2) occurs.

The events are -

- (a) the person makes a new application for support under an authority's scheme established under section 13A(2) of the Act; or
- (b) the person ceased to be entitled to an income-based jobseeker's allowance.

In this regulation "the Act" means the Local Government Finance Act 1992.

- (6) A person falls within this sub-paragraph if the person is a Crown servant or member of Her Majesty's forces posted overseas.
- (7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.
- (8) In this paragraph—
  - "claim for asylum" has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999;
  - "EEA Regulations" means the Immigration (European Economic Area) Regulations 2006.

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

- (1) Subject to paragraph (1A), persons subject to immigration control are not entitled to support under this scheme.
- (1A) A person who is a national of a state which has ratified the European Convention on Social and Medical Assistance (f) (done in Paris on 11<sup>th</sup> December 1953) or a state which has ratified the Council of Europe Social Charter (signed in Turin on 18<sup>th</sup> 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.

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

- (1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000.
- (2) Capital for the purposes of sub-paragraph (1) is to be calculated in accordance with Part 10 of this

<sup>1</sup> As amended by the Immigration Act 2014 and the Immigration Act 2014 (Commencement No. 2) Order 2014

scheme.

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

The class of person described in this paragraph consists of any student to whom paragraph 75(1) applies.

### **PART 6 Applicable amounts**

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

- (1) The applicable amount for a pensioner for a week is the aggregate of such of the following amounts as apply in his case—
- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
  - (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of up to two individuals who are either children or young persons and who are members of his family
  - (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).
- (1A) For the purposes of sub-paragraph (1)(b) as it applies apart from sub-paragraph (1C), where the family includes more than two individuals who are either children or young persons and under paragraph 2 of that Schedule a different amount applies to different individuals, the two amounts to be included in the applicable amount shall be those that result in the greatest possible total amount.
- (1B) Sub-paragraph (1C) applies where—
- (a) (whether or not as part of a tax credit couple as defined in section 3(5A) of the Tax Credits Act 2002) the applicant has an award of child tax credit (whether or not any amount is payable by way of such credit) in respect of a child or young person who is a member of his family; and
  - (b) the total amount to be included in the applicable amount under sub-paragraph (1)(b) as substituted by sub-paragraph (1C) would be higher than the total amount that would be included under paragraph (1)(b) apart from sub-paragraph (1C).
- (1C) Where this paragraph applies, for sub-paragraph (1)(b) substitute—
- (b) an amount determined in accordance with paragraph 2 of that Schedule in respect of any child or young person who is a member of his family and in respect of whom the individual element of child tax credit has been included in the determination of the maximum rate of that credit;”.
- (2) In Schedule 2—
- “additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;
- “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

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

- (1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—
- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
  - (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
  - (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);
  - (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
  - (e) the amount of either the—
    - (i) work-related activity component; or
    - (ii) support component,which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);

(f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

- (2) In Schedule 3—
- “additional spouse” means a spouse by the party to the marriage who is additional to the other party to the marriage;
- “converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations 2008;
- “patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005.

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

- (1) This paragraph applies where an applicant who is not a pensioner is a member of a polygamous marriage and does not have (alone or jointly with a party to a marriage), an award of universal credit.
- (2) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case—
- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in 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;
- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (f) the amount of either the—
- (i) work-related activity component; or
- (ii) support component,
- which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
- (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

- (1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner—
- (a) who has, or
- (b) who (jointly with his partner) has,
- an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).
- (2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—
- (a) one of them is a party to an earlier marriage that still subsists; and
- (b) the other party to that earlier marriage is living in the same household.
- (3) The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.
- (4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012.

**PART 7 Maximum council tax support for the purposes of calculating eligibility for support under this scheme and amount of support**

**29.— Maximum council tax support amount under this scheme: pensioners**

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax support amount in respect of a day is 100 per cent of the amount A/B where—
  - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year,
- (2) In calculating a person's maximum council tax support 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 support 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 support 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 support 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.

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

- (1) Subject to sub-paragraphs (2) to (4), a person's maximum council tax support amount in respect of a day is 100 per cent of the amount A/B where—
  - (a) A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and
  - (b) B is the number of days in that financial year,
- (2) In calculating a person's maximum council tax support 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 support 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 support 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 support 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.

**29B - Deduction from an award of council tax support under this scheme: persons who are not pensioners**

- (1) Where any award of council tax support is granted to a person who is not a pensioner, the award shall be reduced by an amount of 8%.
- (2) For the avoidance of doubt, any award of council tax support in respect of any claim received from a person who is not a pensioner or any entitlement shall be reduced by an amount of 8%.



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

- (1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in section 57 (maximum council tax reduction) shall be;
  - (a) in respect of a non-dependant aged 18 or over in remunerative work,  $\text{£}12.85 \times 1/7$ ;
  - (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply,  $\text{£}4.20 \times 1/7$ .
- (2) In the case of a non-dependant aged 18 or over to whom paragraph 58.1(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is-
  - (a) less than  $\text{£}224.00$ , the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
  - (b) not less than  $\text{£}224.00$ , but less than  $\text{£}389.00$ , the deduction to be made under this section shall be  $\text{£}8.55 \times 1/7$
  - (c) not less than  $\text{£}389.00$ , but less than  $\text{£}484.00$ , the deduction to be made under this section shall be  $\text{£}10.70 \times 1/7$
- (3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.
- (4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- (5) Where in respect of a day—
  - (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
  - (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
  - (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant must be apportioned equally between those liable persons.
- (6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—
  - (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
  - (b) receiving in respect of himself—
    - (i) attendance allowance, or would be receiving that allowance but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (ii) the care component of the disability living allowance, or would be receiving that component but for—
      - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
      - (bb) an abatement as a result of hospitalisation; or
    - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
    - (iv) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.
- (7) No deduction is to be made in respect of a non-dependant if—
  - (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
  - (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or 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.
- (e) 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;
  - (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; or
  - (c) who is entitled to an award of universal credit where the award is calculated on the basis that the person does not have any earned income.
- (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, the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund 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);
  - (d) any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disability was caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy.
- (10) For the purposes of sub-paragraph (8), “earned income” has the meaning given in regulation 52 of the Universal Credit Regulations 2013.

**PART 8 Alternative maximum council tax support for the purposes of calculating eligibility for support under this scheme and amount of support: Pensioners and persons who are not pensioners**

**31.— Alternative maximum council tax support under this scheme: pensioners and persons who are not pensioners**

- (1) Subject to sub paragraphs (2) and (3), the alternative maximum council tax support in respect of a day where the conditions set out in paragraph 15 (alternative maximum council tax support: pensioners) or 18 (alternative maximum council tax support: persons who are not pensioners) are fulfilled, is the amount determined in accordance with Schedule 4 (amount of alternative council tax support).
- (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 support 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 support under this scheme**

**32.— Amount of support under this scheme: Classes A to F**

- (1) Where a person is entitled to support under this scheme in respect of a day, the amount of the support to which he is entitled is as follows.
- (2) Where the person is within class A or D, that amount is the amount, which is the maximum council tax support in respect of the day in the applicant's case.
- (3) Where the person is within class B or E, that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f) or 17(f), as the case may be.
- (4) Where the person is within class C or F, that amount is the amount, which is the alternative maximum council tax support 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 support to which the person is entitled is whichever is the greater of:
  - (a) the amount of the support given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and
  - (b) the amount of the support given by sub-paragraph (4).

## **PART 10 Income and capital for the purposes of calculating eligibility for support under this scheme and amount of support**

### **CHAPTER 1 Income and capital: general**

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

- (1) The income and capital of—
  - (a) an applicant; and
  - (b) any partner of that applicant,is to be calculated in accordance with the provisions of this Part.
- (2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.
- (3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is married polygamously to two or more members of his household—
  - (a) the applicant must be treated as possessing capital and income belonging to each such member; and
  - (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

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

- (1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.
- (2) Except where—
  - (a) the applicant is a pensioner and is on a guarantee credit, or
  - (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.
- (3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant must be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

### **CHAPTER 2 Income and capital: pensioners in receipt of guarantee credit or savings credit**

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

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

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

- (1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit.
- (2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—
  - (a) the amount of any savings credit payable;
  - (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
  - (c) the higher amount disregarded under this scheme in respect of—

- (i) lone parent's earnings; or
  - (ii) payments of maintenance, whether under a court order or not, which is made or due to be made by—
    - (aa) the applicant's former partner, or the applicant's partner's former partner; or
    - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
  - (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
  - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
  - (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
  - (g) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable);
  - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).
- (3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under 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) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
  - (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
  - (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

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

#### **37.— Calculation of income and capital: persons who are not pensioners who have an award of universal credit**

- (1) In determining the income of an applicant—
- (a) who has, or
  - (b) who (jointly with his partner) has,
- an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.
- (2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.
- (3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—
- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph (3);
  - (b) paragraph 34 (circumstances in which income and capital of non-dependant is to be treated as applicant's), if the authority determines that the provision applies in the applicant's case;
  - (c) such further reduction (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act (power of billing authority to reduce amount of council tax payable).
- (4) The amount for the award of universal credit to be taken into account for the purposes of sub-paragraph (3)(a) is to be determined by multiplying the amount of the award of universal credit by 12 and dividing the product by 52.
- (5) Paragraph 34 (income and capital of non-dependant to be treated as applicant's) applies for the purpose of determining any adjustments which fall to be made to the figure for income under sub-paragraph (3).

- (6) In determining the capital of an applicant—
- (a) who has, or
  - (b) who (jointly with his partner) has,
- an award of universal credit, the authority must use the calculation or estimate of the capital of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

#### **CHAPTER 4 Income: other pensioners**

#### **38. Calculation of income and capital where state pension credit is not payable: pensioners**

Where neither paragraph 35 (applicant in receipt of guarantee credit: pensioners) nor 36 (applicant in receipt of savings credit only: pensioners) applies in the applicant's case, his income and capital is to be calculated or estimated in accordance with paragraphs 39 to 46 and 57 to 62 (calculation of income) and Chapter 7 of this Part (calculation of capital).

#### **39.— Meaning of “income”: pensioners**

- (1) For the purposes of classes A to C in this scheme, “income” means income of any of the following descriptions—
- (a) earnings;
  - (b) working tax credit;
  - (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
  - (d) income from annuity contracts (other than retirement pension income);
  - (e) a war disablement pension or war widow's or widower's pension;
  - (f) a foreign war disablement pension or war widow's or widower's pension;
  - (g) a guaranteed income payment;
  - (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, in any case where article 31(2)(c) applies;
  - (i) income from capital other than capital disregarded under Part 1 of Schedule 9;
  - (j) social security benefits, other than retirement pension income or any of the following benefits—
    - (i) disability living allowance;
    - (ii) personal independence payment;
    - (iii) an AFIP;
    - (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
    - (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
    - (vi) child benefit;
    - (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);
    - (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
    - (ix) any—
      - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
      - (bb) occasional assistance;
  - (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
  - (xi) housing benefit;
  - (xii) council tax benefit;
  - (xiii) bereavement payment;
  - (xiv) statutory sick pay;
  - (xv) statutory maternity pay;
  - (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA;
  - (xvii) additional statutory paternity pay payable under Part 12ZA of the SSCBA;

- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;
- (l) a payment made—
  - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
  - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979;
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
  - (i) under a court order;
  - (ii) under an agreement for maintenance; or
  - (iii) voluntarily;
- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under—
  - (i) the Civil List Act 1837,
  - (ii) the Civil List Act 1937,
  - (iii) the Civil List Act 1952,
  - (iv) the Civil List Act 1972, or
  - (v) the Civil List Act 1975;
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—
  - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
  - (ii) occupies part of the property; and
  - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

- (2) Where the payment of any social security benefit referred to in sub-paragraph (1) or retirement pension income to which section 16(1)(za) to (e) of the State Pension Credit Act 2002 applies is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.
- (3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount

to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

- (4) The adjustments specified in this sub-paragraph are those made in accordance with—
- (a) the Social Security (Overlapping Benefits) Regulations 1979;
  - (b) the Social Security (Hospital In-Patients) Regulations 1975;
  - (c) section 30DD or section 30E of the SSCBA (reductions in incapacity benefit in respect of pensions and councillor's allowances);
  - (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor's allowances) and regulations made under it;
  - (e) section 14 of the Pensions Act 2014 (pension sharing: reduction in sharer's section 4 pension);
  - (f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction in additional pension in Category A retirement pension and shared additional pension: pension sharing).
- (5) In sub-paragraph (1)(w), "equity release scheme" means a loan—
- (a) made between a person ("the lender") and the applicant;
  - (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and
  - (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

#### **40.— Calculation of weekly income: pensioners**

- (1) Except in a case within sub-paragraph (2), (3A) or (4A) or (5), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made—
- (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
  - (b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined—
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
    - (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
    - (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.
- (2) Sub-paragraph (3) applies where—
- (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
  - (b) the amount of the applicant's income fluctuates and has changed more than once.
- (2A) Income calculated pursuant to paragraph (2) shall be taken into account—
- (a) in the case of a claim, on the date the claim was made or treated as made, and the first day of each benefit week thereafter;
  - (b) in the case of a claim or award where the claimant commences employment the first day of the benefit week following the date the claimant commences that employment, and the first day or each benefit week thereafter; or
  - (c) in the case of a claim or award where the claimant's average weekly earnings from employment change, the first day of the benefit week following the date the claimant's earnings from employment change so as to require recalculation under this paragraph, and the first day of each benefit week thereafter,
- regardless of whether those earnings were actually received in that benefit week.
- (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.

- (3A) Income calculated pursuant to sub-paragraphs (2) and (3) must be taken into account-
- (a) in the case of an application, on the date on which the application was made or treated as made, and the first day of each support week thereafter;
  - (b) in the case of an application or support under a scheme where the applicant commences employment, the first day of the support week following the date the applicant commences that employment, and the first day of each support week thereafter; or
  - (c) in the case of an application or support under a scheme where the applicant's average weekly earnings from employment change, the first day of the support week following the date the applicant's earnings from employment change so as to require recalculation under this paragraph, and the first day of each support week thereafter,
- regardless of whether those earnings were actually received in that support week.
- (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.
- (4A) An applicant's earnings from employment as an employed earner not calculated pursuant to sub-paragraphs (2) and (3) must be taken into account -
- (a) In the case of an application, on the date on which the application was made or treated as made, and the first day of each support week thereafter;
  - (b) In the case of an application or support under a scheme where the applicant commences employment, the first day of the support week following the date the applicant commences that employment, and the first day of each support week thereafter; or
  - (c) in the case of an application or support under a scheme where the applicant's average weekly earnings from employment change, the first day of the support week following the date of the change, and the beginning of each support week thereafter,
- regardless of whether those earnings were actually received in that support week.
- (5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.
- (6) This sub-paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
  - (c) any payment which is made on an occasional basis.
- (7) The period under which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.
- (9) The sums specified in Schedule 5 are to be disregarded in calculating—
- (a) the applicant's earnings; and
  - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
- (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) is to be treated as though they were earnings.
- (11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 9 (capital disregards: pensioners) has effect so that—
- (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
  - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).

- (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

#### **41.— Earnings of employed earners: pensioners**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner who is a pensioner, means any remuneration or profit derived from that employment and includes—
- (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
  - (c) any payment in lieu of notice;
  - (d) any holiday pay;
  - (e) any payment by way of a retainer;
  - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
    - (i) travelling expenses incurred by the applicant between his home and place of employment;
    - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
  - (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001;
  - (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA;
  - (i) statutory paternity pay payable under Part 12ZA of that Act;
  - (j) statutory adoption pay payable under Part 12ZB of that Act;
  - (k) any sums payable under a contract of service—
    - (i) for incapacity for work due to sickness or injury; or
    - (ii) by reason of pregnancy or confinement.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
  - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
  - (c) any occupational pension;
  - (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
  - (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996 in respect of unfair dismissal or unlawful discrimination;
  - (f) any payment in respect of expenses arising out of the applicant participating as a service user.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

#### **42.— Calculation of net earnings of employed earners: pensioners**

- (1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.
- (2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
- (a) any amount deducted from those earnings by way of—
    - (i) income tax;
    - (ii) primary Class 1 contributions under the SSCBA;
  - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;

(c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and

(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 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;

(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

(c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

#### **43.— Calculation of earnings of self-employed earners: pensioners**

(1) Where the earnings of an applicant who is a pensioner consist of earnings from employment as a self-employed earner, the weekly amount of his earnings is to be determined by reference to his average weekly earnings from that employment—

(a) over a period of one year; or

(b) where the applicant has recently become engaged in that employment or there has been a change which is likely to affect the normal pattern of business, over such other period (“computation period”) as may, in the particular case, enable the weekly amount of his earnings to be determined more accurately.

(2) For the purposes of determining the weekly amount of earnings of an applicant to whom sub-paragraph (1)(b) applies, his earnings over the computation period are to be divided by the number equal to the number of days in that period and the product multiplied by 7.

(3) The period over which the weekly amount of an applicant's earnings is calculated in accordance with this paragraph is to be his assessment period.

#### **44.— Earnings of self-employers earners: pensioners**

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

(2) “Earnings” in the case of employment as a self-employed earner does not include:

(a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;

(b) any payment made by a local authority to an applicant—

(i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989 or, as the case may be, section 26 or 26A of the Children (Scotland) Act 1995; or

(ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009 or who is a kinship carer under those Regulations;

- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
- (d) any payment made to the applicant or his partner for a person (“the person concerned”) who is not normally a member of the applicant’s household but is temporarily in his care, by—
  - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;
  - (ii) a voluntary organisation;
  - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
  - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006;
  - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006; or
  - (vi) the persons concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (respectively, duty and power to meet care and support needs of an adult);
- (da) any payment or part of a payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person (“A”) which A passes on to the applicant where A—
  - (i) was formerly in the applicant’s care;
  - (ii) is aged 16 or over; and
  - (iii) continues to live with the applicant;
- (db) any payments made to an applicant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance: further provisions)
- (e) any sports award.

#### **45.— Notional income: pensioners**

- (1) An applicant who is a pensioner is to be treated as possessing—
  - (a) subject to sub-paragraph (2), the amount of any retirement pension income—
    - (i) for which no claim has been made; and
    - (ii) to which he might expect to be entitled if a claim for it were made;
  - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred—
  - (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
  - (b) a shared additional pension payable under section 55A of the SSCBA;
  - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 196
- (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 “rate of the annuity which may have been purchased with the fund and must be determined by the authority, taking account of information provided by the pension fund holder.
- (7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).
- (8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.
- (9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to support under this scheme or increasing the amount of the support.
- (10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.
- (11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.
- (12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant participating as a service user.
- (13) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects to apply, to the date on which the altered rate is to take effect.
- (14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with sub-paragraph (13), the authority must—
  - (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant's income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
  - (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).
- (15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where—
  - (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
  - (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.
- (16) In sub-paragraph (15), “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.

#### **46.— Income paid to third parties: pensioners**

- (1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner is to be treated as possessed by the applicant.
- (2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
  - (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and

(c) the person referred to in paragraph (a) and his partner 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 participating as a service user.

## **CHAPTER 5 Income: persons who are not pensioners**

### **47.— Average weekly earnings of employed earners: persons who are not pensioners**

- (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—
  - (a) over a period immediately preceding the support 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 support 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 or expects to receive an amount of earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
  - (b) in any other case, the authority must estimate the applicant's average weekly earnings.
- (3) Where the amount of an applicant's earnings changes the authority must estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed 52 weeks.
- (4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

### **47A - Date on which income consisting of earnings from employment as an employed earner are taken into account**

- (1) A claimant's average weekly earnings from employment estimated pursuant to regulation 47 (Average weekly earnings of employed earners) and Section 3 (Employed earners) of this Part shall be taken into account -
  - (a) in the case of a claim, on the date that the claim was made or treated as made and the first day of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week;
  - (b) in the case of a claim or award where the claimant commences employment, the first day of the benefit week following the date the claimant commences that employment, and the first day of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week; or
  - (c) in the case of a claim or award where the claimant's average weekly earnings from employment change, the first day of the benefit week following the date of the change, and the beginning of each benefit week thereafter, regardless of whether those earnings were actually received in that benefit week.

### **48.— Average weekly earnings of self-employed earners: persons who are not pensioners**

- (1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.
- (2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners).

#### **49.— Average weekly income other than earnings: persons who are not pensioners**

- (1) The income of an applicant who is not a pensioner which does not consist of earnings must, except where sub-paragraph (2) applies, be estimated over such period as is appropriate in order that his average weekly income may be estimated accurately but the length of the period must not in any case exceed 52 weeks; and nothing in this paragraph authorises an authority to disregard any such income other than that specified in Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners).
- (2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 54 (calculation of income other than earnings: persons who are not pensioners).

#### **50.— Calculation of weekly income of employed earners: persons who are not pensioners**

- (1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—
  - (a) does not exceed a week, the weekly amount is to be the amount of that payment;
  - (b) exceeds a week, the weekly amount is to be determined—
    - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
    - (ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.
- (2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

#### **51.— Earnings of employed earners: persons who are not pensioners**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner of a person who is not a pensioner, means any remuneration or profit derived from that employment and includes—
  - (a) any bonus or commission;
  - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
  - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
  - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
  - (e) any payment by way of a retainer;
  - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
    - (i) travelling expenses incurred by the applicant between his home and place of employment;
    - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
  - (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
  - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
  - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
  - (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, 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).

## **52.— Calculation of net earnings of employed earners: persons who are not pensioners**

- (1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.
- (2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).
- (3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—
- (a) any amount deducted from those earnings by way of—
    - (i) income tax;
    - (ii) primary Class 1 contributions under the SSCBA;
  - (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
  - (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
  - (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 E), his net earnings is to be calculated by taking into account those earnings over the assessment period, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
  - (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and



(c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

### **53.— Earnings of self-employed earners: persons who are not pensioners**

- (1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.
- (2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant’s care) nor does it include any sports award.
- (3) This paragraph applies to—
  - (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.
- (4) Where the applicant’s earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—
  - (a) the amount of support under this scheme to which the applicant would have been entitled had the payment not been made, plus
  - (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant’s case.

### **54.— Calculation of income other than earnings: persons who are not pensioners**

- (1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).
- (2) There is to be disregarded from the calculation of an applicant’s gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 8.
- (3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.
- (4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008, the amount of that benefit to be taken into account is the amount as if it had not been reduced.
- (5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.
- (6) Sub-paragraphs (7) and (8) apply where—
  - (a) a relevant payment has been made to a person in an academic year; and
  - (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.
- (7) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula—

$$(A - (B \times C)) / D$$

Where

(a) A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);

(b) B = the number of support weeks from the support week immediately following that which includes the first day of that academic year to the support week which includes the day on which the person abandoned, or was dismissed from, his course;

(c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2) (treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to support 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 support 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 support week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the support 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 support week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the support week which includes—

(i) the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or

(ii) the last day of the last quarter for which an instalment of the relevant payment was payable to that person,

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—(c) 1st January and ending on 31st March;

(d) 1st April and ending on 30th June;

(e) 1st July and ending on 31st August; or

(f) 1st September and ending on 31st December;

“relevant payment” means either a student loan or an amount intended for the maintenance of dependants referred to in paragraph 76(7) or both.

- (10) For the avoidance of doubt there must be included as income to be taken into account under sub-paragraph (1)—

(a) any payment to which paragraph 41(2) or 51(2) (payments not earnings) applies; or

(b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

## **55.— Capital treated as income: persons who are not pensioners**

- (1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.

- (2) Any payment received under an annuity is to be treated as income.
- (3) Any earnings to the extent that they are not a payment of income is to be treated as income.
- (4) Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.
- (5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

**56.— Notional income: persons who are not pensioners**

- (1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to support under a council tax support scheme or increasing the amount of the support.
- (2) Except in the case of—
  - (a) a discretionary trust;
  - (b) a trust derived from a payment made in consequence of a personal injury;
  - (c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;
  - (d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);
  - (e) any sum to which paragraph 51(a) of Schedule 10 refers;
  - (f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;
  - (g) child tax credit;
  - (h) working tax credit, or
  - (i) any sum to which sub-paragraph (11) applies,
 any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from the date on which it could be expected to be acquired were an application made.
- (3) Any payment of income, other than a payment of income specified in sub-paragraph (4), made—
  - (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
  - (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
  - (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.
- (4) Sub-paragraph (3) does not apply in respect of a payment of income made—
  - (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
  - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal);
  - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
    - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
    - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

- (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
  - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
  - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.
- (5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.
- (6) Subject to sub-paragraph (7), where—
- (a) an applicant performs a service for another person; and
  - (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,
- the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.
- (7) Sub-paragraph (6) does not apply—
- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
  - (b) in a case where the service is performed in connection with—
    - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
    - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or
  - (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.
- (8) In sub-paragraph (7)(c) "work placement" means practical work experience which is not undertaken in expectation of payment.
- (9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.
- (10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—
- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings

the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;

(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

(c) one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

- (11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

## **CHAPTER 6 Income: further provisions applying to pensioners and persons who are not pensioners**

### **57.— Calculation of income on a weekly basis**

- (1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—

(a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;

(b) by adding to that amount the weekly income calculated—

(i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);

(ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners); and

(c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

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

(a) the applicant's earnings which form part of his average weekly income are less than the lower of either his relevant child care charges or whichever of the deductions specified in sub-paragraph (3) otherwise applies in his case; and

(b) that applicant or, if he is a member of a couple either the applicant or his partner, is in receipt of either working tax credit or child tax credit.

- (3) The maximum deduction to which sub-paragraph (1)(c) above refers is to be—

(a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;

(b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

### **58.— Treatment of child care charges**

- (1) This paragraph applies where an applicant (within the meaning in this paragraph) is incurring relevant child care charges and—

(a) is a lone parent and is engaged in remunerative work;

(b) is a member of a couple both of whom are engaged in remunerative work; or

(c) is a member of a couple where one member is engaged in remunerative work and the other—

(i) is incapacitated;

(ii) is an in-patient in hospital; or

(iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

- (2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- (a) is paid statutory sick pay;
  - (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
  - (c) is paid an employment and support allowance;
  - (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987; or
  - (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—
- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
  - (b) the first day of the period in respect of which earnings are credited, as the case may be.
- (4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.
- (5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10).
- (6) The charges are paid by the applicant for care which is provided—
- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
  - (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.
- (7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—
- (a) in respect of the child's compulsory education;
  - (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
  - (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.
- (8) The care to which sub-paragraph (7) refers may be provided—
- (a) out of school hours, by a school on school premises or by a local authority—
    - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
    - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
  - (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999; or
  - (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010; or
  - (d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010; or
  - (e) by—
    - (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010; or
    - (ii) local authorities registered under section 83(1) of that Act,
 where the care provided is child minding or day care of children within the meaning of that Act; or
  - (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
  - (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
  - (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section

34(2) of that Act; or

(i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or

(j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or

(k) by a foster parent or kinship carer under the Fostering Services Regulations 2011, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or

(l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 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;

(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 or the Employment and Support Allowance Regulations 2013(a);

(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 or the Employment and Support Allowance Regulations 2013(a) 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 (v), (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 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(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, has ceased to be payable by virtue of 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

(c) he is entitled to either statutory maternity pay under section 164 of the SSCBA, ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person's maternity, paternity leave or adoption leave commences and ends on—

(a) the date that leave ends;

(b) if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or

(c) if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credit ends,

whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

(a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations 1987; and

(b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

(18) In this paragraph “applicant” does not include an applicant—

(a) who has, or

(b) who (jointly with his partner) has,  
an award of universal credit.

#### **59.— Calculation of average weekly income from tax credits**

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

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

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

(a) a daily instalment, the period is 1 day, being the day in respect of which the instalment is paid;

(b) a weekly instalment, the period is 7 days, ending on the day on which the instalment is due to be paid;

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

(d) a four weekly instalment, the period is 28 days, ending on the day on which the instalment is due to be paid.

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

#### **60. Disregard of changes in tax, contributions etc.**

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

(a) in the basic or other rates of income tax;

(b) in the amount of any personal tax relief;

(c) in the rates of national insurance 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 profits threshold 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 support weeks beginning with the support week immediately following the date from which the change is effective.

#### **61.— Calculation of net profit of self-employed earners**

(1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must be—

(a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;

(b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and

(ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;

(c) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less—

(i) an amount in respect of income tax and of national insurance 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) national insurance contributions payable under the SSCBA,

calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and

(c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraph (3)(a) or (4), in respect of—

(a) any capital expenditure;

(b) the depreciation of any capital asset;

(c) any sum employed or intended to be employed in the setting up or expansion of the employment;

(d) any loss incurred before the beginning of the assessment period;

- (e) the repayment of capital on any loan taken out for the purposes of the employment;
  - (f) any expenses incurred in providing business entertainment; and
  - (g) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.
- (6) A deduction is to be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—
- (a) the replacement in the course of business of equipment or machinery; or
  - (b) the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.
- (7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.
- (8) For the avoidance of doubt—
- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
  - (b) a deduction must be made there under in respect of—
    - (i) the excess of any value added tax paid over value added tax received in the assessment period;
    - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
    - (iii) any payment of interest on a loan taken out for the purposes of the employment.
- (9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—
- (a) an amount in respect of—
    - (i) income tax; and
    - (ii) national insurance contributions payable under the SSCBA,
 calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
  - (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.
- (10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.
- (11) The amount in respect of any qualifying premium is to be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this paragraph the daily amount of the qualifying premium must be determined—
- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
  - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.
- (12) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of application.

**62.— Calculation of deduction of tax and contributions of self-employed earners**

- (1) The amount to be deducted in respect of income tax under paragraph 61(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—
- (a) on the basis of the amount of chargeable income, and
  - (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007 (personal allowances) as is appropriate to his circumstances.
- (2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

- (3) The amount to be deducted in respect of national insurance 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(2) or, as the case may be, 11(8) 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 profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.
- (4) In this paragraph “chargeable income” means—
- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

## CHAPTER 7 Capital

### 63.— Calculation of capital

- (1) The capital of an applicant to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).
- (2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—
- (a) Schedule 9, in relation to pensioners;
- (b) Schedule 10, in relation to persons who are not pensioners.
- (3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—
- (a) child tax credit;
- (b) working tax credit;
- (c) state pension credit,
- if the payment was made in respect of a period for the whole or part of which support under this scheme was allowed before those arrears were paid.
- (4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

### 64.— Income treated as capital: persons who are not pensioners

- (1) This paragraph applies in relation to persons who are not pensioners.
- (2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.
- (3) Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.
- (4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.
- (5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.
- (6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.
- (7) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the

Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, is to be treated as capital.

- (8) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.
- (9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.
- (10) Any arrears of working tax credit or child tax credit must be treated as capital.

#### **65. Calculation of capital in the United Kingdom**

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

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

#### **66. Calculation of capital outside the United Kingdom**

Capital which an applicant possesses in a country outside the United Kingdom must be calculated—

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

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

#### **67.— Notional capital**

- (1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to support or increasing the amount of that support 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.

#### **68.— Diminishing notional capital rule: pensioners**

(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
- (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions,
- is to be reduced by an amount determined under sub-paragraph (3);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
- (i) that week is a week subsequent to the relevant week; and
  - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied,
- is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a support week where the applicant satisfies the conditions that—
- (a) he is in receipt of support 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 support 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 support 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 support 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 support 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 support 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 support 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 support under this scheme,

whichever last occurred; and

(b) the applicant would have been entitled to support 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 support 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 support 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 support; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, support;

and where more than one support week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such support week or, as the case may be, the later or latest such part-week is the relevant week;

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



made.

#### **69.— Diminishing notional capital rule: persons who are not pensioners**

- (1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—
  - (a) in the case of a week that is subsequent to—
    - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
    - (ii) a week which follows that relevant week and which satisfies those conditions,is to be reduced by an amount determined under sub-paragraph (3);
  - (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
    - (i) that week is a week subsequent to the relevant week; and
    - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied,is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a support 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 support in council tax under this scheme; and
  - (b) but for paragraph 67(1), he would have received a greater support 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 support 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 support 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 support 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 support 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 support 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 support 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 support under this scheme,

whichever last occurred; and

(b) the applicant would have been entitled to support 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 support 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 support 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 support; or

(b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, support,

and where more than one support week is identified by reference to paragraphs (a) and (b) of this

definition, the later or latest such support week or, as the case may be, the later or latest such part-week is the relevant week;

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

## **70. Capital jointly held**

- (1) Except where an applicant possesses capital which is disregarded under paragraph 67(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

## **71. Calculation of tariff income from capital: pensioners**

- (1) The capital of an applicant who is a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—
  - (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
  - (b) £1 for any excess which is not a complete £500.

## **72. Calculation of tariff income from capital: persons who are not pensioners**

- (1) The capital of an applicant who is not a pensioner, calculated in accordance with this Part, is to be treated as if it were a weekly income of—
  - (a) £1 for each £250 in excess of £6,000 but not exceeding £16,000;
  - (b) £1 for any excess which is not a complete £250.

CHAPTER 1 General

73.— Students Interpretation

(1) In this Part—

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“access funds” means—(a) grants made under section 68 of the Further and Higher Education Act 1992 for the purpose of providing funds on a discretionary basis to be paid to students;

(b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980;

(c) grants made under Article 30 of the Education and Libraries (Northern Ireland) Order 1993 or grants, loans or other payments made under Article 5 of the Further Education (Northern Ireland) Order 1997 in each case being grants, or grants, loans or other payments as the case may be, for the purpose of assisting students in financial difficulties;

(d) discretionary payments, known as “learner support funds”, which are made available to students in further education by institutions out of funds provided by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding under sections 100 and 101 of the Apprenticeships, Skills, Children and Learning Act 2009; or

(e) Financial Contingency Funds made available by the Welsh Ministers;

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

“contribution” means—(a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or

(b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority considers that it is reasonable for the following persons to contribute towards the holder's expenses—

(i) the holder of the allowance or bursary;

(ii) the holder's parents;

(iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or

(iv) the holder's spouse or civil partner;

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“covenant income” means the gross income payable to a full-time student under a Deed of Covenant by his parent;

“education authority” means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“full-time course of study” means a full-time course of study which—(a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;

(b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning

hours per week for the student in question, according to the number of guided learning hours per week for that student set out—

(i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student's learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or

(ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or

(c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

(ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

“grant income” means—

(a) any income by way of a grant;

(b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

(a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the later;

(b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

(a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;

(b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year's start and ending with either—

(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or

(ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;

(c) in the final year of a course of study of more than one year, the period beginning with that year's start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course;

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

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

“standard maintenance grant” means—

(a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London

and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (“the 2003 Regulations”) for such a student;

(b) except where paragraph (c) applies, in the case of a student residing at his parent's home, the amount specified in paragraph 3 thereof;

(c) in the case of a student receiving an allowance or bursary under the Education (Scotland) Act 1980, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Student Support in Scotland Guide issued by the Student Awards Agency for Scotland, or its nearest equivalent in the case of a bursary provided by a college of further education or a local education authority;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 2003 Regulations other than in sub-paragraph (a) or (b) thereof;

“student” means a person, other than a person in receipt of a training allowance, who is attending or undertaking—(a) a course of study at an educational establishment; or

(b) a qualifying course;

“student loan” means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act 1998, section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulations 2007.

(2) For the purposes of the definition of “full-time student” in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—

(a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

(ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it;

(b) in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

(a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;

(b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(4) In sub-paragraph (2), “modular course” means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

#### **74. Treatment of students**

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

#### **75.— Students who are excluded from entitlement to support under this scheme**

(1) The students who are excluded from entitlement to support under this scheme are, subject to sub-paragraphs (2) and (7)—

(a) full-time students, and

(b) students who are persons treated as not being in Great Britain.

(2) Sub-paragraph (1)(b) does not apply to a student—

(a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;

(d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;

(f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;

(g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;

(h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;

(i) who is—

(i) aged under 21 and whose course of study is not a course of higher education,

(ii) aged 21 and attained that age during a course of study which is not a course of higher education, or

(iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);

(j) in respect of whom—

(i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;

(ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;

(iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998;

(iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or

(v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

(5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988.

(6) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

- (7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—
- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
    - (i) engaged in caring for another person; or
    - (ii) ill;
  - (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
  - (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).
- (8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—
- (a) the day on which he resumes attending or undertaking the course; or
  - (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,
- whichever first occurs.

## CHAPTER 2 Income

### 76.— Calculation of grant income

- (1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.
- (2) There must be excluded from a student's grant income any payment—
- (a) intended to meet tuition fees or examination fees;
  - (b) in respect of the student's disability;
  - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
  - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
  - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him;
  - (f) intended to meet the cost of books and equipment;
  - (g) intended to meet travel expenses incurred as a result of his attendance on the course;
  - (h) intended for the child care costs of a child dependant;
  - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989.
- (3) Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—
- (a) the sum of £303 per academic year in respect of travel costs; and
  - (b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.
- (4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998.
- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—
- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the support week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the support 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 support 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 support 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 support 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 support week, the first day of which immediately follows the last day of the period of experience and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

**77.— Calculation of covenant income where a contribution is assessed**

- (1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.
- (2) The weekly amount of the student's covenant must be determined—
  - (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
  - (b) by disregarding £5 from the resulting amount.
- (3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

**78.— Covenant income where no grant income or no contribution is assessed**

- (1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—
  - (a) any sums intended for any expenditure specified in paragraph 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
  - (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
  - (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and
  - (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.
- (2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—
  - (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
  - (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

**79. Relationship with amounts to be disregarded under Schedule 8**

No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

**80.— Other amounts to be disregarded**

- (1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any

expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.

- (2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

### **81.— Treatment of student loans**

- (1) A student loan is to be treated as income.

- (2) In calculating the weekly amount of the loan to be taken into account as income—

(a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—

(i) except in a case where sub-paragraph (ii) applies, the support 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 support week, the first day of which coincides with, or immediately follows, the first day of the course,

and ending with the support 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 support week, the first day of which coincides with or immediately follows, the first day of that academic year, and

(ii) ending with the support week, the last day of which coincides with or immediately precedes, the last day of that academic year,

but excluding any support 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 support 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 support 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 support 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 support week in September; or

(ii) the support week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of June,

and, in all cases, from the weekly amount so apportioned £10 is to be disregarded.

- (3) A student is to be treated as possessing a student loan in respect of an academic year where—

(a) a student loan has been made to him in respect of that year; or

(b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

- (4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

(a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—

(i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to

do so; and

(ii) any contribution whether or not it has been paid to him;

(b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—

(i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and

(ii) no deduction in that loan was made by virtue of the application of a means test.

(5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—

(a) the sum of £303 per academic year in respect of travel costs; and

(b) the sum of £390 per academic year towards the cost of books and equipment, whether or not any such costs are incurred.

(6) A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

## **82.— Treatment of payments from access funds**

(1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.

(3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—

(a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and

(b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable, must be disregarded as income to the extent of £20 per week.

(4) Where a payment from access funds is made—

(a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or

(b) before the first day of the course to a person in anticipation of that person becoming a student, that payment must be disregarded as income.

## **83. Disregard of contribution**

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

## **84. Further disregard of student's income**

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

## **85.— Income treated as capital**

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

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

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

## **86. Disregard of changes occurring during summer vacation**

In calculating a student's income the authority must disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

## **PART 12 Extended Support**

### **CHAPTER 1 Extended Support: pensioners**

## **87. Extended Support: pensioners**

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

## **88.— Extended Support (qualifying contributory benefits): pensioners**

- (1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to support under this scheme by virtue of falling within any of classes A to C is entitled to extended support (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 support 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 support under this scheme by virtue of falling within any of classes A to C where—
  - (a) the applicant ceased to be entitled to support under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

## **89.— Duration of extended support period (qualifying contributory benefits): pensioners**

- (1) Where an applicant is entitled to an extended support (qualifying contributory benefits), the extended support period starts on the first day of the support week immediately following the support 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 support 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 support (qualifying contributory benefits) has no liability for council tax, if that occurs first.

## **90.— Amount of extended support (qualifying contributory benefits): pensioners**

- (1) For any week during the extended support period the amount of the extended support (qualifying

contributory benefits) the applicant is entitled to is the greater of—

(a) the amount of council tax support to which the applicant was entitled by virtue of falling within any of classes A to C in the last support week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;

(b) the amount of support under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any support week during the extended support period, if paragraph 88 (extended support (qualifying contributory benefits): pensioners) did not apply to the applicant; or

(c) the amount of support 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 support (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for support under this scheme, the authority must not award support in pursuance of that application during the extended support period.

### **91.— Extended Support (qualifying contributory benefits)—movers: pensioners**

(1) This paragraph applies—

(a) to a mover; and

(b) from the Monday following the day of the move.

(2) The amount of the extended support (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme which was payable to the mover for the last support 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 support (qualifying contributory benefits) may take the form of a payment from this authority to—

(a) the second authority; or

(b) the mover directly.

### **92.— Relationship between extended support (qualifying contributory benefits) and entitlement to support by virtue of classes A to C**

(1) Where an applicant's support under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 88(1)(b), that support does not cease to have effect until the end of the extended support period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended support (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended support – movers: pensioners).

### **93.— Continuing support where state pension credit claimed: pensioners**

(1) This paragraph applies where—

(a) the applicant is entitled to support 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;

(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; 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 support 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 support under this scheme.
- (4) Where support 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 support week, then support under this scheme must continue to be awarded until the end of the support 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 support amount of the applicant is to be that which was applicable in his case immediately before that period commenced.
- (6) The maximum support is to be calculated in accordance with paragraph 29(1) or 29A(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 Support: persons who are not pensioners**

### **94. Extended Support: persons who are not pensioners**

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

### **95.— Extended Support: persons who are not pensioners**

- (1) An applicant who is entitled to support under this scheme by virtue of falling within any of classes D to F is entitled to an extended support 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 support under this scheme by virtue of falling within any of classes D to F where—
  - (a) the applicant ceased to be entitled to support under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying income-related benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying income-related benefit ceased in any of the circumstances listed

in sub-paragraph (1)(b).

- (5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987 (remunerative work: housing costs) applied to that applicant.

**96.— Duration of extended support period: persons who are not pensioners**

- (1) Where an applicant is entitled to an extended support, the extended support period starts on the first day of the support week immediately following the support week in which the applicant, or the applicant's partner, ceased to be entitled to a qualifying income-related benefit.
- (2) For the purpose of sub-paragraph (1), an applicant or an applicant's partner ceases to be entitled to a qualifying income-related benefit on the day immediately following the last day of entitlement to that benefit.
- (3) The extended support 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 support is payable has no liability for council tax, if that occurs first.

**97.— Amount of extended support: persons who are not pensioners**

- (1) For any week during the extended support period the amount of the extended support to which an applicant is entitled is to be the higher of—
- (a) the amount of the support under this scheme to which the applicant was entitled by virtue of falling within any of classes D to F in the last support week before the applicant or the applicant's partner ceased to be entitled to a qualifying income-related benefit;
  - (b) the amount of support under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to F for any support week during the extended support period, if paragraph 95 (extended support: persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of support 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 support under this paragraph and the applicant's partner makes an application for support under this scheme, no amount of support under this scheme is to be awarded by the authority during the extended support period.

**98.— Extended support—movers: persons who are not pensioners**

- (1) This paragraph applies—
- (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended support awarded from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support 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 support (qualifying contributory benefits) may take the form of a payment from this authority to—
- (a) the second authority; or
  - (b) the mover directly.

**99.— Relationship between extended support and entitlement to support by virtue of classes D to F**

- (1) Where an applicant's entitlement to support 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 support period.
- (2) Paragraphs 106 and 107 do not apply to any extended support payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended support—movers: persons who are not pensioners).

**100.— Extended support (qualifying contributory benefits): persons who are not pensioners**

- (1) An applicant who is entitled to support under this scheme by virtue of falling within any of classes D to F is entitled to an extended support (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 support 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 support under this scheme by virtue of falling within any of classes D to F where—
- (a) the applicant ceased to be entitled to support under this scheme because the applicant vacated the dwelling in which the applicant was resident;
  - (b) the day on which the applicant vacated the dwelling was either in the week in which entitlement to a qualifying contributory benefit ceased, or in the preceding week; and
  - (c) entitlement to the qualifying contributory benefit ceased in any of the circumstances listed in sub-paragraph (1)(b).

**101.— Duration of extended support period (qualifying contributory benefits): persons who are not pensioners**

- (1) Where an applicant is entitled to an extended support (qualifying contributory benefits), the extended support period starts on the first day of the support week immediately following the support 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 support 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 support (qualifying contributory benefits) has no liability for council tax, if that occurs first.

**102.— Amount of extended support (qualifying contributory benefits): persons who are not pensioners**

- (1) For any week during the extended support period the amount of the extended support (qualifying contributory benefits) payable to an applicant is to be the greater of—
- (a) the amount of support under this scheme to which the applicant was entitled by virtue of falling within any of classes D to F in the last support week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
  - (b) the amount of support under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to F for any support week during the extended support period, if paragraph 100 (extended support (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
  - (c) the amount of support 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 support (qualifying contributory benefits) under this



paragraph and the applicant's partner makes an application for support under this scheme, no amount of support may be allowed by the appropriate authority during the extended support period.

**103.— Extended support (qualifying contributory benefits)—movers: persons who are not pensioners**

- (1) This paragraph applies—
  - (a) to a mover; and
  - (b) from the Monday following the day of the move.
- (2) The amount of the extended support (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme which was awarded to the mover for the last support 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 support (qualifying contributory benefits) may take the form of a payment from this authority to—
  - (a) the second authority; or
  - (b) the mover directly.

**104.— Relationship between extended support (qualifying contributory benefits) and entitlement to support by virtue of classes D to F**

- (1) Where an applicant's support 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 support does not cease until the end of the extended support period.
- (2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended support (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended support—movers: persons who are not pensioners).

**CHAPTER 3 Extended Support: movers in the authority's area**

**105. Extended Support: applicant moving into the authority's area**

Where—

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

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

## PART 13 When entitlement begins and change of circumstances

### 106.— Date on which entitlement begins

- (1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for support under this scheme is made and who is otherwise entitled to that support is so entitled from the support week following the date on which that application is made or is treated as made.
- (2) Where a person is otherwise entitled to support 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 support week in which his application is made or is treated as made, he is so entitled from that support week.

### 107.— Date on which change of circumstances is to take effect

- (1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, support under this scheme ("change of circumstances"), takes effect from the first day of the support week following the date on which the change actually occurs.
- (2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.
- (3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.
- (4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act (discounts), it takes effect from the day on which the change in amount has effect.
- (5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.
- (6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.
- (7) If two or more changes of circumstances occurring in the same support week would, but for this paragraph, take effect in different support 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) not used
  - (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 support 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 support week, the effective date in that case is to be the first day of the next support week to commence after the date determined under that sub-paragraph.

#### **107A De Minimis Change - persons who are not pensioners**

- (1) Where a change of circumstances occurs which would amend the calculation and subsequent award of Council Tax Support in any support week by an amount of less than **£1.00**, no change to the award shall be made.

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

- (1) Sub-paragraphs (2) and (3) apply where—
- (a) the applicant is in receipt of state pension credit;
  - (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
  - (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of support 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 support he receives under this scheme, the change takes effect from the first day of the support week in which state pension credit becomes payable at the increased rate; or
  - (b) a decrease in the support he receives under this scheme, the change takes effect from the first day of the support 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 support 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 support 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 support week next following the date on which—
    - (i) the authority receives notification from the Secretary of State of the support 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 support he receives under this scheme is increased, the change takes effect from the first day of the support 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 support he receives under this scheme, the change takes effect from the first day of the support 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 support 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 support the applicant receives under this scheme, the change takes effect from the first day of the support 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 support where state pension credit claimed), that change takes effect on the first day of the first support week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—(a) the authority or a person—

(i) authorised to carry out any function of the authority relating to this scheme; or

(ii) providing services relating to this scheme directly or indirectly to the authority; or

(b) an officer of—

(i) the Department for Work and Pensions; or

(ii) the Commissioners of Inland Revenue,

acting as such,

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

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

“relevant determination” means a change in the determination by the authority of the applicant's income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

## **PART 14 Applications (including duties to notify authority of change of circumstances)**

### **109.— Making an application**

(1) In the case of—

(a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or

(b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

(a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on his behalf; or

(c) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

- (3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, 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 support or its amount.

#### **110.— Date on which an application is made**

- (1) Subject to sub-paragraph (7), the date on which an application is made is—
  - (a) in a case where—
    - (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,  
the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;
  - (b) in a case where—
    - (i) an applicant or his partner is a person in receipt of a guarantee credit,
    - (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
    - (iii) the application to the authority is received at the designated office within one month of the date of the change,  
the date on which the change takes place;
  - (c) in a case where—
    - (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
    - (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,  
the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;
  - (d) in a case where—
    - (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance

- or an income-related employment and support allowance or has an award of universal credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the designated office within one month of the date of the change,

the date on which the change takes place;

(e) in a case where—

- (i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to support under this scheme, and
- (ii) where the applicant makes an application for support 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 support 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 support under this scheme in the support 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 support 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 support 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 support week following the date on which the application is made,
- the authority may treat the application as made on a date in the support week immediately preceding the first support week of that period of entitlement and award support accordingly.
- (8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance.

#### **111.— Backdating of applications: pensioners**

- (1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such support, 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 support under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

#### **112.— Backdating of applications: persons who are not pensioners**

- (1) Where an applicant who is a person who is not a pensioner—
- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),
- the application is to be treated as made on the date determined in accordance with sub-paragraph (2).
- (2) That date is the latest of—
- (a) the first day from which the applicant had continuous good cause;
  - (b) the day 6 months before the date the application was made;
  - (c) the day 6 months before the date when the applicant requested that the application should include a past period.

#### **113.— Information and evidence**

- (1) Subject to sub-paragraph (3), a person who makes an application for support 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 support 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 support is made;
  - (b) to a person who—
    - (i) is a person treated as not being in Great Britain for the purposes of this scheme;
    - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
    - (iii) has not previously been allocated a national insurance number.
- (4) Subject to sub-paragraph (5), a person who makes an application, or a person to whom support under this scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by the authority in order to determine that person's entitlement to, or continuing entitlement to support 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 support 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, the Caxton Foundation” insert “, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents’ Discretionary Fund, the Windrush Compensation Scheme or the London Bombings Relief Charitable Fund;
    - (aa) a Grenfell Tower support payment;
  - (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 support under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information—
- (a) the name and address of the pension fund holder;
  - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

**114.— Amendment and withdrawal of application**

- (1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.
- (2) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the amendment may also be made by telephone.
- (3) Any application amended in accordance with sub-paragraph (1) or (2) is to be treated as if it had been amended in the first instance.
- (4) A person who has made an application may withdraw it by notice to the designated office at any time



before a decision has been made on it.

- (5) Where the application was made by telephone in accordance with Part 1 of Schedule 1, the withdrawal may also be made by telephone.
- (6) Any notice of withdrawal given in accordance with sub-paragraph (4) or (z5) has effect when it is received.
- (7) Where a person, by telephone, amends or withdraws an application the person must (if required to do so by the authority) confirm the amendment or withdrawal by a notice in writing delivered or sent to the designated office.

#### **115.— Duty to notify changes of circumstances**

- (1) Subject to sub-paragraphs (3) 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 support under this scheme) including at any time while the applicant is in receipt of such support.
- (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, support 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 support 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 in the case of a person falling within class C (pensioners: alternative maximum council tax support) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;
- (7) A person who has been awarded support 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 or where the absence is from Great Britain, which exceeds or is likely to exceed 4 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 support 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 support under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

## PART 15 Decisions by authority

### 116. Decision by authority

The authority must make a decision on an application for support under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

### 117.— Notification of decision

- (1) The authority must notify in writing any person affected by a decision made by it under this scheme—
  - (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
  - (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.
- (2) Where the decision is to award support 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 support or its amount.
- (3) Where the decision is to award support, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.
- (4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in this scheme relating to the procedure for making an appeal.
- (5) A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.
- (6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.
- (7) For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under this scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).
- (8) This sub-paragraph applies to—
  - (a) the applicant;
  - (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
    - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
    - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to apply or, as the case may be, receive benefit on the person's behalf; or
    - (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney

- Act 1985 or the Mental Capacity Act 2005 or otherwise,  
(c) a person appointed by the authority under paragraph 109(3).

## **PART 16 Circumstances in which a payment may be made**

### **118.— Payment where there is joint and several liability.**

- (1) Where—
- (a) a person is entitled to support 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 support 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 support 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 support.
- (3) Where a person other than the person who is entitled to the support under this scheme made the application for the support and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the support may be paid to that person.

### **119.0 Transitional provisions for restrictions on amounts for children and young persons (pensioners)**

- (1) This regulation applies where—
- (a) on 31st March 2018, a person is liable to pay council tax at a reduced rate by virtue of a council tax support under an authority's scheme established under section 13A(2) of the Local Government Finance Act 1992 ("a section 13A(2) scheme"); and
  - (b) the person is, or the person and the person's partner are between them, responsible for more than two individuals who are either children or young persons and who are members of the same household (each such individual is referred to as a protected individual").
- (2) Where this regulation applies, the amendments made by regulation 7 do not apply to the person entitled to a council tax support referred to in paragraph (1) until—
- (a) the person makes a new application for support under an authority's section 13A(2) scheme; or
  - (b) the person or the person's partner (if any) becomes responsible for a new individual, whichever is the first to occur.
- (3) Paragraphs (4) to (8) apply where—
- (a) the amendments made by regulation 7 apply by virtue of paragraph (2)(b);
  - (b) the child tax credit provisions do not apply; and
  - (c) the person has not made a new application for support under an authority's scheme for support under an authority's section 13A(2) scheme.
- (4) Notwithstanding the default provisions, a child amount shall be included in the applicable amount in relation to any protected individual, in relation to any time when the person or the person's partner (if any) is responsible for the individual and the individual is a member of the same household.
- (5) Paragraph (6) applies where—
- (a) the person or the person's partner (if any) is responsible for one or more protected individuals who are members of the same household; and
  - (b) either of them is responsible for one or more new individuals who are members of the same household.

- (6) Where this paragraph applies, any protected individual for whom the person or the person’s partner is responsible is to be counted for the purpose of deciding whether, under the default provisions, an additional child amount is to be included in the applicable amount with respect to the new individual or individuals referred to in paragraph (5)(b).
- (7) Paragraph (8) applies where—  
 (a) the number of protected individuals for whom either the person or the person’s partner (if any) is responsible, and who are members of the same household, is one;  
 (b) the number of new individuals for whom either the person or the person’s partner is responsible, and who are members of the same household, is two or more; and  
 (c) a different child amount would apply to different individuals.
- (8) Where this paragraph applies, the child amounts to be included in the applicable amount shall be—  
 (a) the child amount in relation to the protected individual; and  
 (b) a child amount in relation to such one of the new individuals as will result in the greatest possible total amount.
- (9) Under paragraph (3), for the purposes of determining whether the child tax credit provisions apply, by virtue of paragraph 6(1B) of Schedule 1 to the 2012 Regulations, where the person or the person’s partner is responsible for one or more protected individuals, the total amount that would be included in the applicable amount under the default provisions shall be taken to be the total that would be included under paragraphs (4), (6) and (8).
- (10) For the purposes of this regulation—  
 (a) “the 2012 Regulations” means the Council Tax Support Schemes (Prescribed Requirements) (England) Regulations 2012;  
 (b) “applicable amount”, “child”, “partner” and “young person” have the same meanings as in the 2012 Regulations;  
 (c) “child amount” means the amount determined under paragraph 2 of Schedule 2 to the 2012 Regulations;  
 (d) “child tax credit provisions” means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);  
 (e) “default provisions” means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);  
 (f) “new individual” means a child or young person who is not a protected individual;  
 (g) any reference to an individual being part of the same household means being part of the same household with the person who is entitled to support under an authority’s section 13A(2) scheme and the person’s partner (if any);  
 (h) a person is to be treated as responsible for a child or young person in the circumstances set out in regulation 7 of the 2012 Regulations

## SCHEDULE 1 - Procedural matters

### PART 1 Procedure for an application for support under this scheme

#### Procedure by which a person may apply for support under this scheme

1.  
Paragraphs 2 to 7 apply to an application for support 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. 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 support under this scheme, or

(b) the amount of any support under this scheme,

may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

**9.**

The authority must—

(a) consider the matter to which the notice relates;

(b) notify the aggrieved person in writing—

(i) that the ground is not well founded, giving reasons for that belief; or

(ii) that steps have been taken to deal with the grievance, stating the steps taken.

**10.**

Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

## **PART 3 Procedure for applying for a discretionary reduction**

### **Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act**

#### **11.**

- (1) An application to the authority for a reduction under section 13A(1)(c) of the 1992 Act may be made—
- (a) in writing;
  - (b) by means of an electronic communication in accordance with Part 4 of this Schedule; or
  - (c) where the authority has published a telephone number for the purposes of receiving such applications, by telephone.
- (2) Where—
- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
  - (b) a person in that class would otherwise be entitled to a reduction under this scheme,
- that person's application for a reduction under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

## **PART 4 Electronic communication**

### **12. Interpretation**

In this Part—

“information” includes an application, certificate, notice or other evidence;

“official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

### **13.— Conditions for the use of electronic communication**

- (1) The authority may use an electronic communication in connection with applications for, and awards of, support under this scheme.
- (2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.
- (3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.
- (4) The second condition is that the person uses an approved method of—
- (a) authenticating the identity of the sender of the communication;
  - (b) electronic communication;
  - (c) authenticating any application or notice delivered by means of an electronic communication; and
  - (d) subject to sub-paragraph (7), submitting to the authority any information.
- (5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.
- (6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.
- (7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.
- (8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part of this Schedule.

### **14. Use of intermediaries**

The authority may use intermediaries in connection with—

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

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

### **15.— Effect of delivering information by means of electronic communication**

(1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed—

(a) by this Part; and

(b) by or under an enactment,

are satisfied.

(2) The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

#### **16. Proof of identity of sender or recipient of information**

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

(a) the sender of any information delivered by means of an electronic communication to an official computer system; or

(b) the recipient of any such information delivered by means of an electronic communication from an official computer system,

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

#### **17.— Proof of delivery of information**

(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this must be presumed to have been the case where—

(a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or

(b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this must be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt must be presumed to be that recorded on an official computer system.

#### **18. Proof of content of information**

If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content must be presumed to be that recorded on an official computer system.

**SCHEDULE 2 Applicable amounts:**

**PART 1 Persons who are pensioners**

(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) is;

(a) on or after 1<sup>st</sup> April 2021, the amount specified in column (2) of Table 1 below in respect of each person or couple referred to in column (1) of that Table.

(1A) For the purposes of sub-paragraph (1)(b) as it applies apart from sub-paragraph (1C), where the family includes more than two individuals who are either children or young persons and under paragraph 2 of that Schedule a different amount applies to different individuals, the two amounts to be included in the applicable amount shall be those that result in the greatest possible total amount.

(1B) Sub-paragraph (1C) applies where—

(a) (whether or not as part of a tax credit couple as defined in section 3(5A) of the Tax Credits Act 2002) the applicant has an award of child tax credit (whether or not any amount is payable by way of such credit) in respect of a child or young person who is a member of his family; and

(b) the total amount to be included in the applicable amount under sub-paragraph (1)(b) as substituted by sub-paragraph (1C) would be higher than the total amount that would be included under paragraph (1)(b) apart from sub-paragraph (1C).

(1C) Where this paragraph applies, for sub-paragraph (1)(b) substitute—

(b) an amount determined in accordance with paragraph 2 of that Schedule in respect of any child or young person who is a member of his family and in respect of whom the individual element of child tax credit has been included in the determination of the maximum rate of that credit;

**Transitional provisions for restrictions on amounts for children and young persons**

(1) This regulation applies where—

(a) on 31<sup>st</sup> March 2018, a person is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A (2) of the Local Government Finance Act 1992 ("a section 13A(2) scheme"); and

(b) the person is, or the person and the person's partner are between them, responsible for more than two individuals who are either children or young persons and who are members of the same household (each such individual is referred to as a "protected individual").

(2) Where this regulation applies, the amendments made by regulation 7 do not apply to the person entitled to a council tax reduction referred to in paragraph (1) until—

(a) the person makes a new application for a reduction under an authority's section 13A(2) scheme; or

(b) the person or the person's partner (if any) becomes responsible for a new individual, whichever is the first to occur.

(3) Paragraphs (4) to (8) apply where—

(a) the amendments made by regulation 7 apply by virtue of paragraph (2)(b);

(b) the child tax credit provisions do not apply; and

(c) the person has not made a new application for a reduction under an authority's scheme for a reduction under an authority's section 13A(2) scheme.

(4) Notwithstanding the default provisions, a child amount shall be included in the applicable amount in relation to any protected individual, in relation to any time when the person or the person's partner (if any) is responsible for the individual and the individual is a member of the same household.

(5) Paragraph (6) applies where—

(a) the person or the person's partner (if any) is responsible for one or more protected individuals who are members of the same household; and

(b) either of them is responsible for one or more new individuals who are members of the same household.



(6) Where this paragraph applies, any protected individual for whom the person or the person’s partner is responsible is to be counted for the purpose of deciding whether, under the default provisions, an additional child amount is to be included in the applicable amount with respect to the new individual or individuals referred to in paragraph (5)(b).

(7) Paragraph (8) applies where—

- (a) the number of protected individuals for whom either the person or the person’s partner (if any) is responsible, and who are members of the same household, is one;
- (b) the number of new individuals for whom either the person or the person’s partner is responsible, and who are members of the same household, is two or more; and
- (c) a different child amount would apply to different individuals.

(8) Where this paragraph applies, the child amounts to be included in the applicable amount shall be—

- (a) the child amount in relation to the protected individual; and
- (b) a child amount in relation to such one of the new individuals as will result in the greatest possible total amount.

(9) Under paragraph (3), for the purposes of determining whether the child tax credit provisions apply, by virtue of paragraph 6(1B) of Schedule 1 to the 2012 Regulations, where the person or the person’s partner is responsible for one or more protected individuals, the total amount that would be included in the applicable amount under the default provisions shall be taken to be the total that would be included under paragraphs (4), (6) and (8).

(10) For the purposes of this regulation—

- (a) “the 2012 Regulations” means the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012;
- (b) “applicable amount”, “child”, “partner” and “young person” have the same meanings as in the 2012 Regulations;
- (c) “child amount” means the amount determined under paragraph 2 of Schedule 2 to the 2012 Regulations;
- (d) “child tax credit provisions” means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (e) “default provisions” means the provisions of paragraph 6(1)(b) of Schedule 1 to the 2012 Regulations (as substituted by paragraph 6(1C) of that Schedule);
- (f) “new individual” means a child or young person who is not a protected individual;
- (g) any reference to an individual being part of the same household means being part of the same household with the person who is entitled to a reduction under an authority’s section 13A(2) scheme and the person’s partner (if any);
- (h) a person is to be treated as responsible for a child or young person in the circumstances set out in regulation 7 of the 2012 Regulations.

**Table 1**

<i>Column (1) Person, couple or polygamous marriage</i>	<i>Column (2) Amount</i>
(1) Single applicant or lone parent who has attained pensionable age before 1 <sup>st</sup> April 2021	£197.10
(2) Couple one or both members before 1 <sup>st</sup> April 2021	£294.90
(3) If the applicant is a member of a polygamous marriage and one or more members of the marriage have attained pensionable age before 1 <sup>st</sup> April 2021	(a) 294.90; (b) £97.80
(a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	£182.60
(4) Single applicant or lone parent who has attained pensionable age on or after 1st April 2021	£278.70
(5) Couple where both members have attained pensionable age on or after 1st April 2021	

(6) If the applicant is a member of a polygamous marriage and all members of the marriage have attained pensionable age on or after 1st April 2021—  (a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant	£278.70 £96.10
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## 2. Child or young person amounts

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

Column (1)	Column (2)
Child or young Person	Amount
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (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.	(a) £70.80; (b) £70.80.

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

## PART 2 Family premium

### 3. Family premium

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

- (a) is £17.85 in respect of a reduction week which begins in the period beginning with 1st April 2015 and ending with 30<sup>th</sup> April 2016;
- (b) is nil in respect of a reduction week which begins after 1st May 2016.

### Transitional provision

(1) The amendment in regulation Part 2-3 (Family Premium) of this policy (or 2(4)(b) for the purposes of SI2041/2015) does not apply to a person who, on 30<sup>th</sup> April 2016, is liable to pay council tax at a reduced rate by virtue of a council tax reduction under an authority's scheme established under section 13A (2) of the Act and is—

- (a) a member of a family of which at least one member is a child or young person; or
- (b) a partner in a polygamous marriage, where he or she, or another partner of the polygamous marriage, is responsible for a child or young person who is a member of the same household.

(2) Paragraph (1) does not apply if—

- (a) sub-paragraph (a) or (b) of that paragraph ceases to apply; or
- (b) the person makes a new application for a reduction under an authority's scheme under section 13A (2) of the Act.

(3) For the purposes of this regulation—

- (a) “the Act” means the Local Government Finance Act 1992;
- (b) “child”, “family”, “partner”, “polygamous marriage” and “young person” have the meanings given by regulation 2 of the Council Tax Reduction Schemes (Prescribed

## PART 3 - Premiums

4. The premiums specified in Part 4 shall, for the purposes of paragraph 24(1)(d), be 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 shall be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the 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 care component of child disability payment at the highest or middle rate in accordance with regulation 11(5) of the DACYP Regulations, 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 shall be treated as being a severely disabled person if, and only if—

- a. in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
  - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; 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 under section 70 of the SSCBA or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013 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;
  - (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 or has an award of universal credit that includes the carer element 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 or has such an award of universal credit 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 shall 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 shall nevertheless be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account shall be taken of—

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
- (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 shall be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made there under;
- (c) as being entitled to and in receipt of a carer's allowance or having an award of universal credit which includes the carer element 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 or have such an award of universal credit.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b)—

- (a) no account shall 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 or as having an award of universal credit which includes the carer element shall include reference to a person who would have been in receipt of that allowance or had such an award of universal credit but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit).

#### **Enhanced disability premium**

7.—(1) The condition is 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;
- (aa) the care component of child disability payment is payable at the highest rate in accordance with regulation 11(5) of the DACYP Regulations; or
- (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with section 78(2) of that Act, in respect of a child or young person who is a member of the applicant's family.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

#### **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;
- (aa) is in receipt of child disability payment; 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 shall be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

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

- (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
- (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

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

**Persons in receipt of concessionary payments**

10. For the purpose of determining whether a premium is applicable to a person under paragraphs 6 to 9 of this Schedule, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs shall 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 shall be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and shall be so regarded only for any period in respect of which that benefit is paid.

**PART 4 - Amounts of premium specified in Part 3**

<i>Provision</i>	<i>Amount</i>
(a) where the applicant satisfies the condition in paragraph 6(2)(a);	(a) £69.40;
(b) where the applicant satisfies the condition in paragraph 6(2)(b)—	(b)
(a) in a case where there is someone in receipt of a carer's allowance or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013, or if he or any partner satisfies that condition only by virtue of paragraph 6(7);	(i) £69.40;
(b) in a case where there is no-one in receipt of such an allowance or such an award of universal credit.	(ii) £138.80.
(2) Enhanced disability premium	(2) £27.44 in respect of each child or young person in respect of whom the conditions

(3) Disabled Child Premium.

(4) Carer Premium.

specified in paragraph 7 are satisfied.

(3) £68.04 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied

(4) £38.85 in respect of each person who satisfies the condition specified in paragraph 9.

**SCHEDULE 3 - 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>Person or couple</i>	<i>Amount</i>
(1) A single applicant who–	(1)
(a) is entitled to main phase employment and support allowance;	(a) £77.00
(b) is aged not less than 25;	(b) £77.00
(c) is aged not less than 18 but less than 25.	(c) £61.05
(2) Lone parent.	(2) £77.00
(3) Couple.	(3) £121.05
(4) If the applicant is a member of a polygamous marriage	
(a) for the applicant and the other party to the marriage;	(a) £121.05
(b) for each additional spouse who is a member of the same household as the applicant.	(b) £44.05

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)–

<b>Column (1)</b>	<b>Column (2)</b>
<b>Child or Young person</b>	<b>Amount</b>
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;	£70.80
(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.	£70.80

(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 this scheme in respect of a family of which at least one member is a child or young person shall be
  - a. where the applicant is a lone parent to whom sub-paragraph (3) of Schedule 3 of the Housing Benefit Regulations 2006 applies, £22.20;
  - b. in any other case, £17.85;

## **PART 3 Premiums**

**5.**

Except as provided in paragraph 6, the premiums specified in Part 4 are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.

**6.**

Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.

**7.**

The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
- (b) an enhanced disability premium to which paragraph 12 applies;
- (c) a disabled child premium to which paragraph 13 applies; and
- (d) a carer premium to which paragraph 14 applies,

may be applicable in addition to any other premium which may apply under this Schedule.

**8.—**

(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

### **Disability premium**

**9.**

The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
  - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
  - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

### **Additional condition for the disability premium**

**10.—**

(1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

- (a) the applicant or, as the case may be, his partner—



(i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002, mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or

(ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—

(aa) council tax benefit (in relation to the period prior to 1st April 2013, and

(bb) support under this scheme (in relation to the period commencing on 1st April 2013), and

if the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or

(iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or

(v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or

(vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; 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 at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

## Severe disability premium

### 11.—

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

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

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—

(i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

(ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and

(iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;

(b) in the case of an applicant who has a partner—

(i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

(ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and

(iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

(a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or

(b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

(a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living

component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;

(b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001 (loss of benefit provisions).

## **Enhanced disability premium**

### **12.—**

(1) Subject to sub-paragraph (2), the condition is that—

(a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or

(b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—

(i) the applicant; or

(ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit; or

(c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—

(i) the applicant; or

(ii) a member of the applicant's family,

who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

(a) an applicant who—

(i) is not a member of a couple or a polygamous marriage; and

(ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or

(b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

## **13. Disabled child premium**

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

(a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or

(b) is blind or treated as blind within the meaning of paragraph 10; or

(c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

#### 14. Carer premium

(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 support, 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.—

<i>Premium</i>	<i>Amount</i>
(1) Disability Premium—	(1)
(a) where the applicant satisfies the condition in paragraph 9(a);	(a) £36.20
(b) where the applicant satisfies the condition in paragraph 9(b).	(b) £51.60
(2) Severe Disability Premium—	(2)
(a) where the applicant satisfies the condition in paragraph 11(2)(a);	(a) £69.40

(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 has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013; and if he or any partner satisfies that condition only by virtue of paragraph 11(5);	(b)(i) £69.40
(ii) (ii) in a case where there is no-one in receipt of such an allowance or such an award of universal credit	(b)(ii) £138.80
(3) Disabled Child Premium.	(3) £68.04 in respect of each child or young person in respect of whom the condition specified in paragraph 13 of Part 3 of this Schedule is satisfied.
(4) Carer Premium.	(4) £38.85 in respect of each person who satisfies the condition specified in paragraph 14.
(5) Enhanced disability premium	(5)
(a) £27.44 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied;	
(b) £17.75 in respect of each person who is neither–	
(i) a child or young person; nor	
(ii) a member of a couple or a polygamous marriage,	
in respect of whom the conditions specified in paragraph 12 are satisfied;	
(c) £25.35 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 £30.60.

**24.** No work-related activity component will be awarded where the applicant or partner makes a new claim for Employment and Support Allowance on or after 1<sup>st</sup> April 2017. The amount of the support component is £40.60.

## **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 support 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 support, 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 support under this scheme;

(c) in the support week in which the applicant again becomes entitled to support 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 support 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 support 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 support 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 support 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 support 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 - Amount of alternative maximum council tax support: pensioners and persons who are not pensioners**

**1.–**

(1) Subject to paragraphs 2 and 3, the alternative maximum council tax support in respect of a day for the purpose of paragraph 31 (alternative maximum council tax support: 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) or 18(2) (class F) (as the case may be) 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 support under this scheme); and
- (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.

(1)	(2)
<b>Second adult</b>	<b>Alternative maximum council tax support</b>
(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	(a) 25 per cent of the council tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—	(b)
(i) is less than £222.00 per week;	(i) 15 per cent of the council tax due in respect of that day;
(ii) is not less than £222.00 per week but less than £288.00 per week;	(ii) 7.5 per cent of the council tax due in respect of that day;

**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 support 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 support, 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 - Sums disregarded from applicant's earnings: pensioners

1.

Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

2.

In a case where an applicant is a lone parent, £25 of earnings.

3.—

(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

(3) If—

- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and
- (b) either of them has, or both of them have, other earnings,

so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

4.—

(1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

5.—

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

- (a) is in receipt of—
  - (i) long-term incapacity benefit under section 30A of the SSCBA;
  - (ii) severe disablement allowance under section 68 of that Act;
  - (iii) attendance allowance under sections 64 of that Act;

(iv) disability living allowance;

(v) personal independence payment;

(vi) an AFIP;

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

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

(ix) main phase employment and support allowance; or

(b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, 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 or regulation 7 of the Employment and Support Allowance Regulations 2013 (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 support 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 support under a council tax support 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 regulation 39(1)(a), (b) or (c) of the Employment and Support Allowance Regulations 2013; 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 support 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 family includes at least one child or young person; 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 - 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, the whole of any of the following—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
- (g) a pension paid by a government to victims of National Socialist persecution

### **2.**

The whole of any amount included in a pension to which paragraph 1 relates in respect of—

- (a) the applicant's need for constant attendance;
- (b) the applicant's exceptionally severe disablement.

### **3.**

Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

### **4.**

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

### **5.**

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

### **6.—**

(1) Any payment which is—

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

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



7.  
£15 of any widowed parent's allowance to which the applicant is entitled under section 39A of the SSCBA.

8.  
£15 of any widowed mother's allowance to which the applicant is entitled under section 37 of the SSCBA.

9.  
Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

10.  
If the applicant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
  - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
  - (ii) the amount paid is £20 or more per week, £20.

11.  
Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

(a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;

(b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65 or if it was higher at the time, pensionable age;

(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 family includes at least one child or young person, £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 - 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 support 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 support 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 support 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 or a scheme to which section 4 of that Act applies;

(b) a part-time fire-fighter employed by a the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005 (a);

(c) an auxiliary coastguard in respect of coast rescue activities;

- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10.

Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11.

In a case to which none of the paragraphs 4 to 10 applies, £5.

12.—

(1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

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

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there must also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

- (a) in receipt of a contributory employment and support allowance;
- (b) in receipt of incapacity benefit;
- (c) in receipt of severe disablement allowance; or
- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.

(6) "Exempt work" means work of the kind described in—

(a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)

(b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

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

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

**13.**

Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant's income which does not consist of earnings been sufficient to entitle him to the full disregard there under.

**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 - Sums disregarded in the calculation of income other than earnings: persons who are not pensioners**

1.

Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.

2.

Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.

3.

Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.

4.

Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).

5.

Any payment in respect of any expenses incurred or to be incurred by an applicant who is—

- (a) engaged by a charitable or voluntary organisation, or
- (b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).

6.

Any payment in respect of expenses arising out of the applicant's participation in a service user group.

7.

In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

8.

Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.

9.

Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.

10.

Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.

11.

Any disability living allowance, personal independence payment or an AFIP.

12.

Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 11 or 14;
- (b) income support;
- (c) an income-based jobseeker's allowance;
  
- (d) an income-related employment and support allowance.

13.

Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

14.

Any attendance allowance.

15.

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

16.—

(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

(i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to—

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

(a) regulations made under section 518 of the Education Act 1996;

(b) regulations made under section 49 of the Education (Scotland) Act 1980; or

(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

17.

Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

18.—

(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

(a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;

(b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or

(c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

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

**19.—**

(1) Subject to sub-paragraph (2), any of the following payments—

(a) a charitable payment;

(b) a voluntary payment;

(c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;

(d) a payment under an annuity purchased—

(i) pursuant to any agreement or court order to make payments to the applicant; or

(ii) from funds derived from a payment made,

in consequence of any personal injury to the applicant; or

(e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

(a) a former partner of the applicant, or a former partner of any member of the applicant's family; or

(b) the parent of a child or young person where that child or young person is a member of the applicant's family.

**20.**

Subject to paragraph 40, the whole of any of the following, namely—

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);

(b) a war widow's pension or war widower's pension;

(c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;

(e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;

(f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;

(g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

**21.**

Subject to paragraph 40, £15 of any—

- (a) widowed mother's allowance paid pursuant to section 37 of the 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 there under, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

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

- (a) the weekly amount of the payments; or
- (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

**25.**

Any payment made to the applicant by a child or young person or a non-dependant.

**26.**

Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family,

is less than £20, the whole of that amount; or

(b) where the aggregate of any such payments is £20 or more per week, £20.

**27.**

Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

(a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;

(b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

**28.—**

(1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to ““income in kind”” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

**29.**

Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

**30.—**

(1) Any payment made to the applicant in respect of a person who is a member of his family—

(a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978 (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);

(b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);

(c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);

(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 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and
- (b) meet any amount due by way of premiums on—
  - (i) that policy; or
  - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

**36.**

Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.

**37.**

Any—

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

**38.**

Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

**39.**

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

40.

The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.

41.—

(1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

(a) the person who is suffering from haemophilia or who is a qualifying person;

(b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or

(c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

(a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either—

(i) to that person's parent or step-parent, or

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

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either—

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

**42.**

Any housing benefit.

**43.**

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

**44.**

Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

**45.**

Any payment in consequence of support 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;

(b) the Child Support (Northern Ireland) Order 1991;

(c) a court order;

(d) a consent order;

(e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

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

**51.**

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

**52.**

Any guardian's allowance.

**53.—**

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

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

**54.**

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

**55.**

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

**56.—**

(1) Any payment which is—

(a) made under any of the Dispensing Instruments to a widow, widower or surviving civil partner of a person—

(i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and

(ii) whose service in such capacity terminated before 31st March 1973; and

(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

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

**57.**

Any council tax support 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 support week exceeds the amount of income-based jobseeker's allowance that person would have received in that support week had it been payable to him, less 50p, that excess amount.

**63.**

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

**64.**

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

**65.—**

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

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

**66.**

Any payment of child benefit.

**67.**

Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:

(a) an applicant's entitlement to a reduction under the scheme; or

(b) the amount of any reduction to which the applicant is entitled.

“The Energy Rebate Scheme 2022” means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022

**PART 1 Capital to be disregarded**

**1.**

Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.

**2.**

Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

**3.**

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

**4.**

Any premises occupied in whole or in part—

(a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;

(b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

**5.**

Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

**6.**

Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

**7.**

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

**8.**

All personal possessions.

**9.**

The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

**10.**

The assets of any business owned in whole or in part by the applicant if—

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the application for support 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, “the Scottish Infected Blood Support Scheme, an approved blood scheme, the London Emergencies Trust, the We Love Manchester Emergency Fund, the Grenfell Tower charitable funds, the Grenfell Tower Residents’ Discretionary

Fund, the Windrush Compensation Scheme or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or

- (aa) a Grenfell Tower support payment
- (b) the Independent Living Fund (2006)
- (c) Any historical child abuse payment
- (d) Any Windrush payment.

- (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 or from a Grenfell Tower support payment, a historical child abuse payment or a Windrush payment 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 or from a Grenfell Tower support payment, a historical child abuse payment or a Windrush payment 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 or from a Grenfell Tower support payment, a historical child abuse payment or a Windrush payment 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 or from a Grenfell Tower support payment, a historical child abuse payment or a Windrush payment, 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—
- (a) any payment of income or capital made under or deriving from any of the Trusts; or
  - (b) a Grenfell Tower support payment, a historical child abuse payment or a Windrush payment.

**16A.**

Any payment made under, or by, a trust which is approved by the Secretary of State and which is established for the purpose of giving relief and assistance to a disabled person whose disabilities were caused by their mother having taken a preparation containing the drug known as Thalidomide during her pregnancy

**17.—**

(1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

(2) Where the whole or part of the payment is administered—

(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;

(b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or

(c) in accordance with the terms of a trust established for the benefit of the applicant or his partner,

the whole of the amount so administered.

**18.**

Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.

**19.**

Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

**20.**

So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—

(a) purchasing premises which the applicant intends to occupy as his home; or

(b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

**21.—**

(1) Subject to paragraph 22 any amount paid—

(a) by way of arrears of benefit;

(b) by way of compensation for the late payment of benefit;

(c) in lieu of the payment of benefit;

(d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;

(e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000 under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.

(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;
- (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;
- (p) social fund payments under Part 8 of the SSCBA; or
- (q) universal credit
- (q) maternity allowance under section 35 of the SSCBA (state maternity allowance for employed or self-employed earner);
- (r) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018; or
- (s) funeral expense assistance given in accordance with section 34 of that Act

**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 support 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(a);
- (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(b),
- (f) paragraph 18 of Schedule 10 to the Universal Credit Regulations 2013 (b),

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 support under the authority's scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and

(b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—

(i) is the person who received the relevant sum;

(ii) is the partner of that person; or

(iii) was the partner of that person at the date of his death;

“official error”—(a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and

(b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the application for support under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the total amount referred to in sub-paragraph (1).

**23.**

Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

**24.**

The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

**25.**

Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under

paragraph 5 or 6 of that Schedule.

**26.**

The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.

**27.—**

(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax support: 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.**

**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 (general social welfare);

(e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments);

or

(f) by virtue of regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)

**29A.**

(1) Any payment made by a local authority in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)(a).

(2) Any payment or part of a payment made by a local authority in accordance with that section to a person (“A”) which A passes on to the applicant where A—

(a) was formerly in the applicant’s care;

(b) is aged 16 or over; and

(c) continues to live with the applicant.”

**29B.**

A payment made under the Age-Related Payments Regulations 2013(c).

**29B.**

Any payments to an applicant made under section 49 of the Children and Families Act 2014 (personal budgets and direct payments).

**PART 2 Capital disregarded only for the purposes of determining deemed income**

**30.**

The value of the right to receive any income under a life interest or from a life rent.

**31.**

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

**32.**

The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**33.**

Where property is held under a trust, other than—

- (a) a charitable trust within the meaning of the Charities Act 1993; or
  
- (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

**34.**

Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:

- (a) an applicant's entitlement to a reduction under the scheme; or
- (b) the amount of any reduction to which the applicant is entitled.

"The Energy Rebate Scheme 2022" means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022

## SCHEDULE 10 - 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 support 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 support 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 support 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 support under this scheme or to increase the amount of that support.

**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 or section 66 of the Housing (Scotland) Act 1988 (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

**42.**

Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

**43.—**

(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

**44.**

Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

**45.**

Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

**46.**

Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

**47.**

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

**48.**

Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958. to homeworkers assisted under the Blind Homeworkers' Scheme.

**49.—** Not used

**50.—**

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

(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

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

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**51.**

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

(a) award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.

**52.**

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

**53.**

In the case of a person who is receiving, or who has received, assistance under the self-employment route, any sum of capital which is acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is or was received but only for a period of 52 weeks from the date on which that sum was acquired.

**54.—**

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

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

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

**55.—**

(1) Any payment—

(a) by way of an education maintenance allowance made pursuant to—

(i) regulations made under section 518 of the Education Act 1996;

(ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;

(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;

(b) corresponding to such an education maintenance allowance, made pursuant to—

(i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and 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).

**65.**

Any payment made under the Energy Rebate Scheme 2022 is to be disregarded in determining:

- (a) an applicant's entitlement to a reduction under the scheme; or
- (b) the amount of any reduction to which the applicant is entitled.

“The Energy Rebate Scheme 2022” means the scheme to provide financial support in respect of energy bills which was announced in Parliament by the Chancellor of the Exchequer on 3rd February 2022



## Northumberland County Council

County Council

Wednesday, 17 January 2024

### **COMMUNITY GOVERNANCE REVIEW – STAMFORDHAM PARISH**

**Report of Councillor(s)** Cllr Richard Wearmouth, Deputy Leader and Cabinet Member for Corporate Resources

**Responsible Officer(s):** Stephen Gerrard, Director of Corporate Governance and Monitoring Officer

#### **1. Link to Key Priorities of the Corporate Plan**

This report is relevant to the 'Tackling Inequalities' priority included in the NCC Corporate Plan 2023-26.

#### **2. Purpose of report**

To consider the outcome of a Community Governance Review in the County.

#### **3. Recommendations**

It is recommended that:-

- 3.1** Stamfordham Parish Council should not be divided into wards for the purpose of electing Councillors,
- 3.2** the Monitoring Officer be authorised to make, sign and seal the appropriate Orders by virtue of the powers contained in the Local Government and Public Involvement in Health Act 2007.

#### **4. Forward plan date and reason for urgency if applicable**

Not Applicable

## 5. Background

Stamfordham Parish Council has requested that Northumberland County Council undertake a Community Governance Review (CGR) of Stamfordham Parish in Northumberland County to consider its electoral arrangements with a view to removing its subdivision into wards.

### 5.1 Consultation

- 5.1.1** On 4 August 2023 the Council published terms of reference (attached as Appendix 1) to conduct a Community Governance Review of the Parish to consult on the proposal to remove the subdivision into wards of Stamfordham Parish.
- 5.1.2** Initial consultation took place from 4 August 2023 for a four-week period involving the Division County Councillor (Cllr V. Jones) and Stamfordham Parish Council. A press release was issued to cover interested electors with articles appearing in the media, and information given on how to make representations. Relevant information was also published on the Council's website.
- 5.1.3** Draft recommendations were published, and a further period of consultation took place from 22 September 2023 to 27 October 2023. Following this period of consultation, the draft recommendations were published on the Council website and interested parties provided the opportunity of commenting further on the proposals until 1<sup>st</sup> December 2023.

### 5.2 Analysis of responses

- 5.2.1** Two responses in support of removing the subdivision into wards were received as part of the initial consultation process. There were no objections.
- One respondent commented that they were unaware of the ward system until learning of the Review. They felt that the ward system is unnecessary in an age when most people have access to the internet or telephone and can communicate with any of the Parish Councils as they see fit. Without the ward system, the seven Parish Councillors would represent the entire Parish.
  - Another respondent supported the proposal to de-ward Stamfordham Parish commenting that the present system was an unnecessary complication of all aspects of elections and councillors' work.
- 5.2.2** In undertaking a Community Governance Review, the Council will be guided by Part 4 of Chapter 3 of the Local Government and Public Involvement in Health Act 2007 (referred to as 'the 2007 Act'), the relevant parts of the Local Government Act 1972, Guidance on CGR's issued by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March



2010 and the Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625).

**5.2.3** Following the guidance on community governance reviews referred to above, a CGR must reflect the identities and interests of communities and should take account of the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

**5.2.4** Before making any recommendation or publishing final proposals, the Council should take full account of the views and suggestions of local people and organisations and comply with the statutory consultation requirements by:

- Consulting local government electors and other persons or bodies who appear to the Council to have an interest in the review,
- Considering any representations received in connection with the review,
- Notifying consultees of the outcome of the review; and,
- Publishing all decisions taken and the reasons for such decisions.

In particular in the Stamfordham review, the Council consulted:

- Local government electors/residents in the Parish of Stamfordham.
- The Parish Council of Stamfordham.
- Northumberland County Councillors (as appropriate)

### 5.3 Timeline and key stages in the Stamfordham CGR

4 August 2023	Issue press release and publish terms of reference and notices within the Parish
8 September 2023	Deadline for any comments/objections
22 September 2023	Publication of draft proposals
3 November 2023	Publish final recommendations
17 January 2024	Report to Council informing of the outcomes of the review and making recommendations for Council to resolve upon
Spring 2024	Making of the relevant order, subject to the Council's decision

### 5.4 Electoral Forecasts

**5.4.1** When considering the electoral arrangements of the Parish, the Council must comply with the 2007 Act and consider any likely future change in the number or distribution of electors within five years from the day the review commences.

**5.4.2** The review will use the latest electorate figures available at a parish level together with the estimated delivery of new dwellings within the

five-year period taken from the Council’s most recent statutory development plan.

## 5.5 Considerations

**5.5.1** Legislation requires that the Council must ensure that community governance within the area:

- reflects the identities and interests of the communities in the area,
- is effective and convenient and takes into account any other arrangements for the purpose of community representation or engagement in the area.

**5.5.2** In considering proposals for change, the Council will take the following into account:

- Parish status (council or meeting)
- Electorate – existing and forecast growth.
- The review aims to ensure that parishes reflect community identity and interest and that they are viable administrative and democratic units.
- Parishes with 150 or fewer local government electors cannot have a council and can only be a parish meeting (unless the parish already has a council).
- Between 151 and 999 local government electors the review can recommend that the parish should have a Council (optional) and where the Parish has 1000 or more local government electors the review must recommend that the Parish has a Council.

## 5.6 Council size (number of councillors)

**5.6.1** The minimum number of parish councillors that a council can have is five. A quorum for a parish council is three or a third, whichever is the greater number. National research guidance suggests the following levels of representation for parish councils:

<b>Electorate</b>	<b>Councillor Allocation</b>
Less than 500	5 – 8
501 – 2,500	6 – 12
2,501 – 10,000	9 – 16
10,00, - 20,000	13 – 27
Greater than 20,000	13 – 31

**5.6.2** Government guidance is that each area should be considered on its own merits having regard to population, geography, and the pattern of communities. The Council will pay particular attention to existing levels of representation and existing council sizes which have stood the test of time.

**5.6.2** In considering requests to change the number of councillors on any individual parish council, the Council will review the electoral history for the parish including the number of contested elections that have been held, the number of vacant seats following normal parish elections

(every 4 years) and the history of co-options (i.e., has the council been able to fill vacancies).

## 6. Options open to the Council and reasons for the recommendations

- **OPTION 1** - Recommend that Stamfordham Parish Council should not be divided into wards for the purpose of electing Councillors, or
- **OPTION 2** - Leave arrangements as they currently are
- **Option 1** is the recommended option in order to ensure that arrangements within Stamfordham Parish reflect the identities and interests of the communities in the area.

## 7. Implications

<b>Policy</b>	None
<b>Finance and value for money</b>	None.
<b>Legal</b>	The relevant legislation is detailed within the report.  The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 confirm that the matters within this report are functions reserved to Full Council
<b>Procurement</b>	None
<b>Human resources</b>	None
<b>Property</b>	None
<b>The Equalities Act: is a full impact assessment required and attached?</b>	Not Required N/A
<b>Risk assessment</b>	None
<b>Crime and disorder</b>	None

<b>Customer considerations</b>	The proposals should improve the governance of the local community.
<b>Carbon reduction</b>	None
<b>Health and wellbeing</b>	None
<b>Wards</b>	Ponteland West;

**8. Background papers**

- Terms of Reference
- Consultation responses

**9. Links to other key reports already published**

Not Applicable

**10. Author and Contact Details**

Lynsey Denyer, Head of Members Services, Elections and Deputy Monitoring Officer

Email: [Lynsey.Denyer@northumberland.gov.uk](mailto:Lynsey.Denyer@northumberland.gov.uk)

**Northumberland County Council  
Community Governance Review 2023  
Terms of Reference**

**A Review of the electoral arrangements of the Parish of Stamfordham  
under the Local Government and Public Involvement in Health Act 2007**

**Background**

Stamfordham Parish Council has requested that Northumberland County Council undertake a Community Governance Review (CGR) of Stamfordham Parish in Northumberland County to consider its electoral arrangements with a view to removing its subdivision into wards.

The Parish of Stamfordham currently comprises three parish wards, Wards 1, 2 and 3 with current electorates of 96, 419 and 249 respectively. The Parish has a total of seven Parish Councillors with one representing Ward 1, three representing Ward 2 and three representing Ward 3.

The Parish Council is concerned that the existence of wards leads to confusion at election times and the potential for one ward to be oversubscribed. If the Parish was unwarded, then this difficulty would be removed, and all seven Parish Councillors would represent the whole of the Stamfordham Parish.

The Parish Council has, therefore, asked Northumberland County Council to carry out a community governance review which if approved, will result in the removal of the warded electoral arrangement.

In undertaking the review, the Council will be guided by Part 4 of Chapter 3 of the Local Government and Public Involvement in Health Act 2007 (referred to as 'the 2007 Act'), the relevant parts of the Local Government Act 1972, Guidance on CGR's issued by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010. Also, the following Regulations which guide, in particular, consequential matters arising from the review: Local Government (Parishes and Parish Councils) (England) Regulations 2008 (SI2008/625); Local Government Finance (New Parishes) Regulations 2008 (SI2008/626).

Section 81 of the 2007 Act requires the Council to publish its Terms of Reference for the Review which clearly set out the focus of the review. This document, when published, will fulfil this requirement.

The Council is required to have regard to guidance issued by the Government and the publication 'Guidance on Community Governance Reviews' issued by the Department of Communities and Local Government and the Local Government Boundary Commission for England in March 2010 has been used in drawing up the Terms of Reference and timetable for the review.

### **What is a Community Governance Review?**

A CGR is a legal process whereby Principal Authorities (Northumberland County Council in this instance) can consider the following:

- creating, merging, altering or dissolution of parish councils.
- the naming of parishes and the style of any new parish councils,
- the electoral arrangements for parish councils, i.e., the ordinary year of election, council size, the number of parish councillors and parish warding
- grouping of parishes under a common parish council or de-grouping parishes.

A CGR must reflect the identities and interests of communities and should take account the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish.

### **Who will undertake the review?**

As the principal authority, Northumberland County Council is responsible for undertaking CGRs within its area. The Council has also extended the terms of reference to include electoral registration and boundary matters to oversee the review process and to make final recommendations to the Council for approval following extensive consultation.

The primary contacts for the review are:

- Lesley Bennett, Senior Democratic Services Officer.
- Lynsey Denyer, Head of Member Services and Elections
- Mark Crawford, Elections Manager.

### **Consultation**

Before making any recommendation or publishing final proposals the Council will take full account of the views and suggestions of by local people and organisations and will comply with the statutory consultation requirements by:

- Consulting local government electors and other persons or bodies who appear to the Council to have an interest in the review.
- Considering any representations received in connection with the review.
- Notifying consultees of the outcome of the review; and,
- Publishing all decisions taken and the reasons for such decisions.

In particular, the Council will consult:

- Local government electors/residents in the Parish of Stamfordham.
- The Parish Council of Stamfordham.
- Northumberland County Councillors (as appropriate); and

Information about each stage of the review will be published on the Council's website and available for inspection at Northumberland County Council, County Hall, Morpeth, NE61 2EF. Press releases and other publicity will be issued where appropriate.

Comments should be submitted **in writing** by **8 September 2023** to

Lesley Bennett, Senior Democratic Services Officer, Democratic Services,  
Northumberland County Council, County Hall, Morpeth, Northumberland, NE61 2EF

E-mail: [cgreviews@northumberland.gov.uk](mailto:cgreviews@northumberland.gov.uk)

## Timeline and Key Stages

4 August 2023	Issue press release and publish terms of reference and notices within the Parish
8 September 2023	Deadline for any comments/objections
22 September 2023	Publication of draft proposals
3 November 2023	Publish final recommendations
18 January 2024	Report to Council informing it of the outcome of the review
Spring 2024	Making of the relevant order, subject to the Council's decision

## Electoral Forecasts

When considering the electoral arrangements of the parish, the Council must consider any likely future change in the number or distribution of electors within five years from the day the review commences.

The review will use the latest electorate figures available at a parish level together with the estimated delivery of new dwellings within the five-year period taken from the Council's most recent statutory development plan.

## Scope of the Review

The Review includes all aspects of community governance arrangements of existing parishes, including:

- To consider the names of any existing parishes/parish councils
- To consider the boundaries of any existing parish and whether any existing parishes should be split or amalgamated to constitute any new parish or if any new parish councils should be created along with the number of parish councillors to be elected for any parish council, whether new or existing.
- To consider whether any new or existing parish council should be divided into wards (or continue to be divided into wards), including the number and boundaries of any such wards, the number of councillors to be elected for any such ward, and the name of any such ward.
- If considered desirable to effect any changes, whether any alterations should be made to the ordinary year of election for any new or existing parish/town council.
- To consider whether any recommendations should be made to the Local Government Boundary Commission for England for any subsequent alterations to the electoral divisions of Northumberland County Council.

## Considerations

Legislation requires that the Council must ensure that community governance within the area:

- reflects the identities and interests of the communities in the area,

- is effective and convenient and considers any other arrangements for the purpose of community representation or engagement in the area.

In considering proposals for change, the Council will take the following into account:

- Parish status (council or meeting)
- Electorate – existing and forecast growth.
- The review aims to ensure that parishes reflect community identity and interest and that they are viable administrative and democratic units.
- Parishes with 150 or fewer local government electors cannot have a council and can only be a parish meeting (unless the parish already has a council). Between 151 and 999 local government electors the review can recommend that the parish should have a council (optional) and where the parish 1000 or more local government electors the review must recommend that the parish has a council.

### **Parish boundaries**

The Council will consider the effect of new and forecast development activity on existing parish boundaries. Parish boundaries should be easily identifiable and reflect the separation of settlements recognised locally as having their own identity. These boundaries should generally reflect the areas between communities with low populations or physical barriers such as rivers or man-made features such as railways or motorways.

### **Council size (number of councillors)**

The minimum number of parish councillors that a council can have is five. A quorum for a parish council is three or a third, whichever is the greater number.

National research guidance suggests the following levels of representation for parish councils:

<b>Electorate</b>	<b>Councillor Allocation</b>
Less than 500	5 – 8
501 – 2,500	6 – 12
2,501 – 10,000	9 – 16
10,001 – 20,000	13 – 27
Greater than 20,000	13 – 31

Government guidance is that each area should be considered on its own merits having regard to population, geography, and the pattern of communities. The Council will pay particular attention to existing levels of representation and existing council sizes which have stood the test of time.

In considering requests to change the number of councillors on any individual parish council, the Council will review the electoral history for the parish including the number of contested elections that have been held, the number of vacant seats following normal parish elections (every 4 years) and the history of co-options (i.e., has the council been able to fill vacancies).

### **Parish Warding**

The Council is required to consider the following points when deliberating whether a parish should be divided into wards for the purposes of elections:

- whether the number or distribution of the local government electors for the parish would make a single election of councillors impracticable or inconvenient,



- whether it is desirable that any area, or areas, of the parish should be separately represented on the council.

The Government's guidance is that warding of parishes may not be justified for largely rural areas based predominantly on a single centrally located village. Conversely, warding may be appropriate where a parish encompasses a number of villages with separate identities or where there has been urban overspill at the edge of a town into a parish.

In considering parish wards the Council will ensure that electoral equality is retained (the principle that each person's vote should be of equal weight so far as is possible). This will be achieved by keeping the councillor/elector ration similar across any warded areas.

### **Parish names and alternative styles for parishes**

The Council will endeavour to reflect existing or historic place names and will consider any ward names proposed any local interested parties. The Council will be mindful of Section 75 of the Local Government Act 1972 with regards to changing the name of a parish and subsequent notification and to Sections 87 and 88 of the 2007 Act and related guidance.

Alternative styles for parishes were introduced by the 2007 Act which could replace the 'parish' style – community, neighbourhood, or village. Town status continues to be available to a parish (S247 of the Local Government Act 1972) but for as long as a parish has an alternative style it will not be able to have the status of a town and vice versa.

At the request of a parish the County Council as principal authority can change the name of a parish to reflect the style adopted.

If an existing parish is under review the Council will make recommendations as to whether the geographical name of the parish should change but it will be for the parish council or meeting to resolve whether the parish should have one of the alternative styles or retain the 'parish' style.

### **Grouping of parishes**

Under Section 91 of the 2007 Act a CGR can recommend the grouping or de-grouping of parishes. In some instances, it may be appropriate to group parishes to allow a common parish council to be formed. De-grouping may also offer the reverse possibility where local communities have expanded.

Any grouping or de-grouping needs to be compatible with the retention of community interests and it would be inappropriate to use it to build artificially large units under single parish councils. However, it could offer a possibility for parishes with less than 150 electors to be grouped with other parishes under an elected parish council despite being unable to form a parish council in their own right.

### **Ordinary year of election**

As the County Council is elected every four years on an 'all out' basis it is proposed to keep the ordinary year of election for parish councils on the same date.

### **Reorganisation of Community Governance Orders and Commencement**

The review will be completed when the Council resolves to accept the final recommendations and authorises completion of the Reorganisation of Community Governance Order.

Copies of the Order, supporting maps and documents setting out the reasons for the decisions taken will be placed on deposit at Northumberland County Council, County Hall, Morpeth, NE61 2EF, on the Council's website and otherwise publicised in accordance with the requirements of the 2017 Act. Stamfordham parish will be notified of the outcomes of the review.

Copies of the Order will be sent to:

- the Secretary of State for Housing, Communities and Local Government
- the Local Government Boundary Commission for England
- the Office of National Statistics
- the Director General of the Ordnance Survey
- the Audit Commission

### **Consequential matters**

In the interests of maintaining coterminous boundaries of principal authority electoral areas and the boundaries of parishes, recommendations may be made to the Local Government Boundary Commission for England to make related changes to county electoral area boundaries.

Setting up new parish councils or grouping/de-grouping councils may require additional consequential provisions including:

- the transfer and management or custody of property
- the setting of precepts
- provisions with respect to the transfer of any functions, property, rights, and liabilities
- provisions for the transfer of staff

In these matters the Council will be guided by the relevant legislation.

### **Date of Publication**

These terms of reference will be published on 4 August 2023.

**COMMUNITY GOVERNANCE REVIEW**

**STAMFORDHAM**

**CONSULTATION RESPONSES**

I wish to support the proposal to de-ward Stamfordham Parish.  
The present three wards are an unnecessary complication of all aspects of elections, councillors' work, etc.

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I have to admit that until I read of the Review in September's Stamfordham Communicator, I was unaware of the Ward system within the parish. I have just tried unsuccessfully to find out more from the Parish Council website, eg which ward I am in and who is my representative. Perhaps that gives a message, namely that the Ward system is not necessary in an age where most people have access to the internet or a telephone and can communicate with any of the Parish Councillors as they see fit. In the days without telephones or easy motor transport, it was perhaps more important to know of one person who could be approached with problems.

In summary, I would support the idea of discontinuing the Ward system in favour of a regime where all 7 councillors represented the whole parish.

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## Northumberland County Council

County Council

Wednesday, 17 January 2024

### Independent Chair of Standards Committee

**Report of Councillor(s)** Richard Wearmouth, Deputy Leader and Cabinet Member for Corporate Resources

**Responsible Officer(s):** Stephen Gerrard, Director of Corporate Governance and Monitoring Officer

#### 1. **Link to Key Priorities of the Corporate Plan**

**Achieving Value For Money** - The appointment of an independent Chair of Standards Committee provides independence and fairness, making best use of Council resources.

**Tacking Inequality** - The recruitment process follows internal HR processes ensuring equality and transparency.

#### 2. **Purpose of report**

To update members on the progress of the recruitment process for a new independent Chair of Standards Committee and to ask for the current Chair to be appointed for a period of one year to enable the recruitment process to be completed.

#### 3. **Recommendations**

- 3.1 To appoint Mr Joe Jackson to the position of Independent Chair of Standards Committee for one year, or if sooner, until a new Independent Chair can be recruited.

#### 4. **Forward plan date and reason for urgency if applicable**

The report does not involve a key decision.

## 5. Background

- 5.1 The current composition of the Council’s Standards Committee provides for an Independent Chair to preside over its meetings and to be a member champion for the promotion and maintenance of the Council ethical framework in respect of member conduct. While there is no statutory requirement for the Chair of the Standards Committee to be independent, the authority have previously determined that the position would benefit from such a status. The current incumbent, Mr Joe Jackson, was appointed in September 2013, which appointment has been renewed on three separate occasions, the last being on 8<sup>th</sup> January 2020 for a period of four years.
- 5.2 There is no statutory requirement as to the length of appointment, but it was considered that the position should be exposed to a further open recruitment process. The post was advertised and at their meeting on 12<sup>th</sup> October 2023 Standards Committee appointed an interview panel.
- 5.3 Following the interview process the panel determined that they were unable to recommend appointment to the role. The current Chair, Mr Jackson, was informed and has agreed to remain in post for a further year or until a new Independent Chair is appointed, subject to the decision of Council.

## 6. Options open to the Council and reasons for the recommendations

- 6.1 Extend the tenure of the current Independent Chair of Standards Committee to allow a further recruitment process to appoint a new Independent Chair.
- 6.2 Appoint a Chair from the current membership of the Standards Committee
- 6.3 Option 6.1 is recommended. Council has previously decided upon the value of having an Independent Chair of Standards Committee rather than an elected member undertaking this role. There are no reasons to consider changing this approach.

## 7. Implications

<b>Policy</b>	Not Applicable
<b>Finance and value for money</b>	The Independent Chair will be paid an allowance of £2,700 per annum which is already provided for within the Council’s General Fund Budget.
<b>Legal</b>	None other than those identified in the report
<b>Procurement</b>	Not Applicable
<b>Human resources</b>	Not Applicable
<b>Property</b>	Not Applicable

<b>The Equalities Act: is a full impact assessment required and attached?</b>	No - not required at this point The recruitment process will continue to be carried out in accordance with the Equalities Act 2010
<b>Risk assessment</b>	Not Applicable
<b>Crime and disorder</b>	There are no crime and disorder implications
<b>Customer considerations</b>	The appointment to these two positions gives customers an assurance in relation to the operation of the ethical standards regime
<b>Carbon reduction</b>	Not applicable
<b>Health and wellbeing</b>	No health and wellbeing implications have been identified
<b>Wards</b>	All Wards

**8. Background papers**

Not Applicable

**9. Links to other key reports already published**

Standards Committee Report – 12<sup>th</sup> October 2022

<https://northumberland.moderngov.co.uk/documents/s16856/Independent%20Chair%20of%20Standards%20Committee.pdf>

**10. Author and Contact Details**

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