



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Council

**Monday, 10 December 2018**

**2.30 pm**

**Council Chamber, Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	Bernard Fisher (Chair), Roger Whyborn (Vice-Chair), Victoria Atherstone, Matt Babbage, Paul Baker, Garth Barnes, Dilys Barrell, Angie Boyes, Nigel Britter, Jonny Brownsteen, Flo Clucas, Chris Coleman, Mike Collins, Stephen Cooke, Iain Dobie, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Alex Hegenbarth, Karl Hoble, Sandra Holliday, Martin Horwood, Peter Jeffries, Steve Jordan, Chris Mason, Paul McCloskey, Andrew McKinlay, Tony Oliver, Dennis Parsons, John Payne, Louis Savage, Diggory Seacome, Malcolm Stennett, Jo Stafford, Klara Sudbury, Simon Wheeler, Max Wilkinson, Suzanne Williams and David Willingham

### Agenda

<b>1.</b>	<b>APOLOGIES</b>	
<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>	
<b>3.</b>	<b>MINUTES OF THE LAST MEETING</b> Minutes of the meeting held on 15 October 2018.	(Pages 3 - 38)
<b>4.</b>	<b>COMMUNICATIONS BY THE MAYOR</b>	
<b>5.</b>	<b>COMMUNICATIONS BY THE LEADER OF THE COUNCIL</b>	
<b>6.</b>	<b>TO RECEIVE PETITIONS</b>	
<b>7.</b>	<b>PUBLIC QUESTIONS</b> These must be received no later than 12 noon on Tuesday 4 December 2018.	
<b>8.</b>	<b>MEMBER QUESTIONS</b> These must be received no later than 12 noon on Tuesday 4 December 2018.	
<b>9.</b>	<b>COUNCIL TAX PREMIUM ON EMPTY PROPERTIES</b> Report of the Cabinet Member Finance	(Pages 39 - 46)

<b>10.</b>	<b>LOCAL COUNCIL TAX SUPPORT SCHEME FOR 2019/20</b> Report of the Cabinet Member Finance	(Pages 47 - 182)
<b>11.</b>	<b>TREASURY MID-TERM REPORT 2018/19</b> Report of the Cabinet Member Finance	(Pages 183 - 190)
<b>12.</b>	<b>NOTICES OF MOTION</b>	
<b>13.</b>	<b>ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION</b>	

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**Pat Pratley**  
**Chief Executive**

### Council

**Monday, 15th October, 2018  
2.30 - 5.25 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Bernard Fisher (Chair), Roger Whyborn (Vice-Chair), Victoria Atherstone, Matt Babbage, Paul Baker, Garth Barnes, Dilys Barrell, Angie Boyes, Nigel Britter, Jonny Brownstein, Flo Clucas, Chris Coleman, Mike Collins, Stephen Cooke, Iain Dobie, Steve Harvey, Rowena Hay, Martin Horwood, Peter Jeffries, Steve Jordan, Chris Mason, Paul McCloskey, Andrew McKinlay, Tony Oliver, Dennis Parsons, John Payne, Louis Savage, Diggory Seacome, Malcolm Stennett, Jo Stafford, Klara Sudbury, Max Wilkinson and Suzanne Williams

### Minutes

**1. APOLOGIES**

Apologies were received from Councillor Flynn, Harman, Holliday, Willingham and Hobley.

**2. DECLARATIONS OF INTEREST**

Councillor Williams and Councillor Mason declared they were board Members for Cheltenham Borough Homes.

**3. MINUTES OF THE LAST MEETING**

The minutes of the last meeting had been circulated with the agenda.

Upon a vote it was unanimously

**RESOLVED that the minutes of the meeting held on the 11 September 2018 be agreed and signed as a correct record.**

**4. COMMUNICATIONS BY THE MAYOR**

The Mayor wished to remind Councillors and members of the public that a memorial march was taking place on the 10th November to commemorate 100 years since the end of World War 1. They were hoping to get over 1400 to represent those servicemen and servicewomen from Cheltenham who had lost their life during the War and as such he encouraged all to attend.

The Mayor also wished to pass on his condolences to Councillor Flynn who's mother had recently passed.

**5. COMMUNICATIONS BY THE LEADER OF THE COUNCIL**

The Leader, Councillor Jordan reported that following the commencement of the consultation period, a full report on the exercise plus the next steps in the creation of a vision for Gloucestershire in 2050 was to be expected next week.

He advised that the next steps were for Cheltenham Borough Council to discuss how to take it forward.

He acknowledged that it was an exciting week for Cheltenham as the new John Lewis and the revamped Next store were due to open. He explained that the paving outside John Lewis was nearly complete and the temporary tarmac would be replaced by a more permanent solution, he noted that considerable investment had been put in by Gloucestershire County Council and Cheltenham Borough Council to improve the High Street.

He explained that following a recent private meeting, the Council had decided to purchase Ellenborough House. This was extremely positive for Cheltenham as the Council were investing in property in the Town and paving the way for a sustainable future. He wished to thank all colleagues for supporting the purchase.

**6. TO RECEIVE PETITIONS**

A petition was presented by Councillor Sudbury which called for a policy forbidding the sale of real fur on any markets licenced by the Council. The petition had received over 1000's signatures and was supported by the Respect for Animals charity.

Councillor Baker presented a petition on behalf of residents requesting that the proposals to change the current form of council tax support be rejected.

The Mayor received both petitions on behalf of the Council and would forward them to the relevant Cabinet Member.

**7. PUBLIC QUESTIONS**

<b>1.</b>	<b>Question from Malcolm Rogers to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Why have you felt it necessary to go on public media, and indicate to the public, that you are not bothered about taxi drivers losing their livelihoods? By saying it's their choice to buy a £30,000 Wheelchair vehicle or get out of the trade?
	<b>Response from Cabinet Member</b>
	The Council's Taxi and Private Hire Car policy was adopted in March 2018 by Cabinet and supported later in the same month by the Council's Overview and Scrutiny committee.  For clarity the policy in relation wheelchair accessible vehicles is as follows:-  By 2021 all Taxis will be required to be Wheelchair accessible and only wheelchair accessible vehicles will be licenced as Taxis by Cheltenham Borough Council from that date.  Taxi Drivers have been given three years to adjust to the change to help

	<p>minimise the potential impact on their businesses.</p> <p>There are two basic options available to a current Taxi driver.</p> <ol style="list-style-type: none"> <li>1) Change their existing saloon vehicles for a Wheel chair accessible vehicle (which cost from £10,000 upwards)</li> <li>2) Retain their existing car and operate under a Private Hire Car licence, until such time as they wish to replace it</li> </ol> <p>As you can see the new policy neither forces Taxi Drivers to pay £30,000 for a new car, nor threatens their livelihoods.</p> <p>In a supplementary question Mr Rogers explained that he had purchased a Hackney Carriage taxi plate from an existing licence owner and had considered this his pension fund. However, following the introduction of the new policy the sale value had dropped from £20,000 to £0. Alongside the policy to comply with the wheelchair accessible vehicle policy he queried whether this was fair on taxi drivers or any small business?</p> <p>The Cabinet Member explained that encouraging wheelchair accessible vehicles had been in place since 1988. The sale of taxi plates was a grey area which had never been condoned by the council and the purchase of one had been done at the drivers own risk.</p>
<p><b>2.</b></p>	<p><b>Question from Malcolm Rogers to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>Have you undertaken a survey, at each rank to see how many wheelchair users are actually using the ranks? And how many elderly and infirm users cannot safely use these wheelchair cars?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>No. The policy has been developed in response to national legislation and guidance, plus consultation with disability groups.</p> <p>The requirement for the council to undertake a substantive unmet demand survey in relation to the policy decision is not strictly necessary.</p> <p>Notwithstanding, Cabinet remains of the view that the council needs to be proactive in improving accessibility standards for the travelling public in Cheltenham. Grandfather rights have caused a stagnation of growth of accessibility standards. Cabinet is of the view that Government have been clear that local councils need to be proactive in improving accessibility standards.</p> <p>Through consultation the council have looked at various options giving consideration to the representations made to the council. Given the complexities of the issues involved, the council is considering a wide range of views and evidence in coming to its policy conclusions and would not wish to limit itself to a single piece of evidence.</p> <p>Further consultation is being undertaken with disability groups to inform the policy implementation moving forward.</p> <p>In a supplementary question Mr Rogers queried why, in his opinion, the</p>

	<p>Council were discriminating against the elderly and infirm as this demographic far outweighed the number of wheelchair users in the town, yet they were unable to safely use the wheelchair accessible vehicles.</p> <p>The Cabinet Member explained that in its recommendations following the 2017 consultation, the Government acknowledged that low slung vehicles were not suitable for the majority and wheelchair accessible vehicles were much more functional. As such, he strongly disagreed with Mr Roger's notion that the Council were discriminating against the elderly and infirm.</p>
<b>3.</b>	<b>Question from Edward Cassell to Cabinet Member, Development and Safety, Councillor Andrew McKinlay</b>
	<p>Have the Cabinet identified a specific gap/demand in provision for wheelchair users which isn't currently being met? If so what analysis has been undertaken of what is actually needed?</p>
	<b>Response from Cabinet Member</b>
	<p>See answer to Question 2 above.</p> <p>In a supplementary question Mr Cassell questioned whether the Cabinet had identified a gap in the provision for wheelchair accessible vehicles in the town.</p> <p>The Cabinet Member reiterated that whilst no statutory testing had been conducted various other forms of consultation had taken place.</p>
<b>4.</b>	<b>Question from Edward Cassell to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>When the all WAV taxi and private hire policy was voted in, the date of '2021' was given. When was this arbitrary date added to the taxi policy, and therefore when was it open to consultation.</p>
	<b>Response from Cabinet Member</b>
	<p>The 2021 deadline was set based on Government guidelines that indicate that three years is an appropriate transition period to introduce WAV Taxis. The decision was made in March 2018 thus 2021.</p> <p>In a supplementary question Mr Cassell queried whether the Cabinet taken in to account the needs of elderly residents who were physically unable to access WAV's?</p> <p>The Cabinet Member explained that the Government Research had suggested that WAV's vehicles were suitable for the majority and in instances where they were not appropriate public hire vehicles could be used.</p>
<b>5.</b>	<b>Question from Derrick Sorrell to Cabinet Member Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>Which part of the "Equalities Act 2010" refers to, 'changing all Taxis to Wheelchair Accessible Vehicles'</p>
	<b>Response from Cabinet Member</b>
	<p>The Equalities Act 2010 does not refer to all Taxis having to be changed to Wheelchair Accessible Vehicles.</p>

	<p>However, 160 -165 of the Equalities Act 2010 does refer to the requirement that all Taxis comply with Disability Access Standards. Unfortunately there is no statutorily approved Disability Standard for Taxis, and as a result Councils across the country have adopted the Wheelchair Accessibility Standard to ensure compliance.</p> <p>In a supplementary question Mr Sorrell reported that under the Equalities Act 2010, no reference had been made to the necessity for all taxis to be wheelchair accessible and therefore queried why the Council were doing it?</p> <p>The Cabinet Member reiterated the point that they had a duty to ensure all taxis comply with the Disability Access Standards under the Equalities Act 2010, and as there was no statutorily definition of Disability Standard for Taxis they had defaulted to the Wheelchair Accessibility Standards for which there was a definition.</p>
<p><b>6.</b></p>	<p><b>Question from Derrick Sorrell to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>At the Overview and Scrutiny meeting Councillor McKinlay referred to all taxis in Scotland being wheelchair accessible, to whom did he get this information from or where did he get this information?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>I do not recall saying that all Taxis in Scotland were Wheelchair Accessible. I do recall saying that all Taxis in London were 100% Wheelchair Accessible.</p> <p>I include below the full minute of my testimony to the Overview and Scrutiny, for information.</p> <p><b>“Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p> <p><i>What are your thoughts on the policy?</i></p> <p>The Cabinet Member explained the process followed leading up to the decision by Cabinet on 6 March 2018 to adopt the revised policy. The details of the working group as well as consultation and feedback was set out in the Cabinet report which had been circulated. The results of the consultation were set out in detail in Appendix 4 of the Cabinet report.</p> <p>He went on to highlight the 6 main elements of the new policy and in particular he highlighted the reasons for changing the grandfather rights which were fully set out in the report.</p> <p>In 1988 the council had passed a policy that required all taxis to support the disabled. However the taxi drivers with the grandfather rights had continued to use saloon cars which were not accessible by disabled people and therefore not fit for purpose.</p>

Disability access was less well-defined so a requirement for wheelchair accessibility would ensure the vehicle could be accessed by everybody. Currently the proportion of wheelchair accessible vehicles (WAVs) in the fleet provided a one in five chance that a vehicle in the taxi rank would be suitable for a wheelchair user which he stated he considered discriminatory and therefore unacceptable.

He emphasized that it was the council's policy and not the taxi drivers that was discriminatory. It would be easier to implement the government's requirement for 100% disability access and guide dog accessibility if taxis were required to be 100% wheelchair accessible.

He referred to a report produced by the Department for Transport in August 2017 entitled Accessibility Action Plan Consultation saying it gave a clear indication of government thinking on this matter. In the forward by the Government Minister at the time the Minister said *"My ambition is to ensure that people with physical and hidden disabilities have the same access to transport and opportunities to travel as everyone else ..... this government is committed to improving disabled people's access to transport. As we set out in our 2017 manifesto, we believe that where you live, shop, go out, travel or park your car should not be determined by your disability."*

The report provided statistics that 7% of children, 18% of people of working age and 44% of pensionable age had some sort of disability. The report went on to detail the significant progress that had been made with buses (94%) and as of 2015 over 58% of taxis were accessible and this included all London taxis.

He referred to section 3.8 of the report which highlighted the need for all vehicles designated as wheelchair accessible by the licensing authority to comply with the specific requirements preventing passengers who use assistance dogs or wheelchairs from being refused carriage or charged extra for their journey. He stated this presented a loophole if the licensing authority did not designate any vehicles as wheelchair accessible as then the legislation would not apply. Furthermore under the Equality Act 2010, taxi drivers must make reasonable adjustments to enable disabled people to access those services. He stated that clearly 78% of taxis in Cheltenham were not conforming to this requirement.

His conclusion was that the government view was clear in that disability discrimination in public transport was unacceptable and local authorities must use their powers to rectify the situation.

*How would you respond to some of the issues raised in the letter of representation from the National Association?*

The Cabinet Member did not believe he had broken any law and he could prove this was the case. He pointed out that many local authorities had adopted similar policies and every challenge had failed particularly because much of the information referred to in the letter was out of date.

He disputed the allegation that there had been confusion in the



consultation document and it had been absolutely clear on the options being put forward. It had been stated in the document that if drivers did not want to swap their vehicle before 2021 they could still operate as a private hire vehicle after that date should they wish.

The representation had made various references to the Equality Act 2010 part of which stated that the parts of this Act were not capable of being introduced.

The Cabinet Member disputed this and stated that the government consultation in 2017 demonstrated that the government believed the act was enforceable.

Regarding the financial impact on taxi drivers, the Cabinet Member pointed out that the role of the council as the licensing authority was to ensure public safety and not to secure the income of local taxi drivers. He felt this argument had been overplayed in the representation as drivers could continue to operate with their own vehicles as private hire. Regarding the practice of selling license plates on the grey market, this had no basis in law because the plates belonged to the licensing authority and not to the driver.

The Cabinet Member suggested that the two legal cases referred to in the representation related to cases which preceded the introduction of the Equality Act 2010 and were taken in lower courts. He referred to a more relevant case heard in January 2011 brought against Stratford-upon-Avon District Council on the grounds of insufficient consultation. The Court of Appeal had judged in this case that although Cabinet did not have all the information, the Licensing Committee had had access to it before recommending the policy to Cabinet. The court also made a judgement on appropriate levels of consultation with disabled groups which the Cabinet Member considered knocked a lot of holes in the arguments made in the letter of representation relating to this call-in.

The representation referred to the cost of a new Wheelchair Accessible Vehicle (WAV) being in the region of £36K. The Cabinet Member outlined his own research which found that a wheelchair compliant vehicle such as a Peugeot Horizon could be purchased new for £16K and a 3 year-old vehicle for £10K and on Auto Trader he had found 26 suitable silver vehicles on sale earlier that day. He also referred to a response from a taxi driver in the consultation who had suggested that a WAV could be acquired for £2-3 K and therefore would be flooding the taxi market. The taxi drivers could not have it both ways and the Cabinet Member maintained that WAVs were no more expensive.

In conclusion he did not consider that the arguments in the letter of representation held much water and this was evidenced by the fact that at least 60 councils across the country had introduced similar policies to the one that this Cabinet had approved.

The Chair invited questions from Members to the Cabinet Member.

The chair indicated that there appeared to be some discrepancy

between what the Cabinet Member had said in the Cabinet meeting about further consultation and the final decision. What flexibility was there for further discussion with the taxi drivers?

The Cabinet Member confirmed he was open to further discussions about the implementation of the policy but the timescale and timeframe were not open for further debate and he considered a three-year implementation was reasonable. These discussions could cover the types of WAVs which would be fit for purpose and safe, a review of the licensing charge, the scale of charges made to the public and the option of reviewing charges annually and any issues regarding the general running of the service.

Although the consultation period of 12 weeks had been a sufficient length the number of respondents had been disappointing and would the Cabinet Member accept that the consultation could have been extended or been more proactive?

The Cabinet Member had been disappointed in the level of response and he did not accept that the single response from the local Taxi Association was equivalent to 180 responses. The council had taken steps to promote the consultation via local media but it was a consultation and not a referendum and therefore people couldn't be forced to respond. In conclusion he was entirely comfortable with the consultation that had taken place.

Although it seemed appalling that only 22% of the current taxi fleet could accommodate a wheelchair the move from 22% to 100% WAVs was quite dramatic and the impact on taxi drivers needed to be taken into account. Was such a jump reasonable and could adopting either one of the other two options given taxi drivers more flexibility?

The Cabinet Member advised that when the 100% policy had been adopted 30 years ago, it had been assumed that the grandfather rights would gradually wither but in reality there had been no voluntary switches. The government viewed this as a failure and he could see no other way to achieve the 100% target. The authority now had 186 non-compliant vehicles which was too high for a town the size of Cheltenham.

A Member asked how the sale of licence plates on the grey market was regulated.

The Cabinet Member was not certain of the exact process but he understood that the car with the plate could be sold at a premium (in the order of £8-10K) and then the buyer could transfer the plate to another vehicle. It was custom and practice for the local authority to allow this to happen and many drivers prefer to buy a plate rather than buy a WAV but it had no weight in law or in the licensing policy. He emphasised that if the limit on the number of taxi drivers was removed then there would be no market for the

	<p>plates and so the practice would soon discontinue.</p> <p>A member understood that the Department of Transport had not yet issued any guidance nor had the Secretary of State prescribed the percentage of WAVs which was acceptable. On this basis was the council's 100% target premature and why had the European regulations not been applied regarding definitions of WAVs and disabled access vehicles?</p> <p>The Cabinet Member advised that the government had not defined what constituted a disabled access vehicle and therefore this was not enforceable. The European regulations predated the Equality Act and therefore were not applicable. In his opinion the council's policy was only premature if the council had to wait for the government to issue further guidance but if you considered the current situation was morally wrong and put disabled people at a disadvantage, it was not premature and followed best practice in London, Bristol, Oxford and many other cities.</p> <p>In the absence of government guidelines a member asked whether the Cabinet Member had considered coming up with a specification for a disabled access vehicle?</p> <p>The Cabinet Member said this had been looked at in depth but officers were unable to find a single authority that had come up with a definition which stood up to challenge and therefore they had defaulted to a 100% policy. He added that saloon cars were low on the ground and did present difficulties for elderly people getting in and out of them whereas WAVs have been demonstrated up and down the country as being easier to get in and out of.</p> <p>A taxi driver was invited to speak by the chair and he gave examples of current taxis in the fleet such as a Hyundai SUV and a Ford Galaxy which catered for the needs of older people and it was all a matter of giving customers choice.</p> <p>In conclusion the Cabinet member disputed the suggestion that the policy was introducing anything outrageous or unusual and he considered it was the right way forward."</p> <p>In a supplementary question Mr Sorrell questioned where the Cabinet Member had got the information from when he had said that 'all taxis in Scotland were wheelchair accessible vehicles'?</p> <p>The Cabinet Member did not recall saying such a statement and confirmed that this was not the case. He reported that Aberdeen were in the process of debating on a policy to make all taxis wheelchair accessible. He advised that the majority of cities and larger towns had such 100 %policies and the situation in Scotland was similar to that of England.</p>
<b>7.</b>	<b>Question from Robert Cowie to Cabinet Member Development and</b>

	<b>Safety, Councillor Andrew McKinlay</b>
	Should a subsidy, reduced licence or grant be available for drivers to run the wheelchair accessible cars needed to meet local need rather than the draconian approach being taken?
	<b>Response from Cabinet Member</b>
	<p>No.</p> <p>In a supplementary question Mr Cowie questioned the empathy of the Cabinet Member for taxi drivers and financial hardship they would experience from the policy and said this local policy decision went against the Liberal Democrats party statement on inequality.</p> <p>In response, the Cabinet Member explained that the policy was in line with the vast majority of towns and cities in the country and that drivers had the option to operate under a Private Hire Car licence if they did not wish to change their vehicle.</p>
<b>8.</b>	<b>Question from Robert Cowie to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	When the future of the taxi industry is concerned with ULEV why did Councillor McKinlay ignore the findings of the working group tasked to consult on a new Taxi and Private hire policy, which consisted of Councillors, Stakeholders, and Drivers.
	<b>Response from Cabinet Member</b>
	<p>The findings of the Working Group were included as one of the submissions considered in developing the new policy, and was referenced in the report considered by Cabinet in March 2018.</p> <p>In a supplementary question Mr Cowie queried why the Council were favouring diesel taxis that conform to an outdated emissions standard(euro 5) just to allow the policy to proceed? He stated that the policy was preventing them from working in the other boroughs in the county due to the emission standards required.</p> <p>The Cabinet member advised that they were actively encouraging low use and electrical vehicles and were adopting the European standards on air quality.</p>
<b>9.</b>	<b>Question from Hannah Wright to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>Earlier this year, Gloucester City Council banned the release of balloons and sky lanterns from council-owned land.</p> <p>Sky lanterns and balloons have caused wildlife and livestock deaths, and fires including that which destroyed over 50 caravans near Tewkesbury in 2013, and 'the largest fire West Midlands had seen' at a recycling plant in 2013.</p> <p>Will the council consider joining over 80 other councils in England and Wales, in banning the release of sky lanterns from Cheltenham parks?</p>
	<b>Response from Cabinet Member</b>
	Cheltenham Borough Council banned the release of balloons and sky lanterns from council-owned land in 2010. The following information is

	<p>displayed on the council website: 'Release of sky lanterns and balloons: We have a duty of care to ensure the safety of visitors and the local community. In the interest of safety and protecting the surrounding environment, the launching of 'Sky Lanterns', or items of a similar nature, from council-owned land and premises is not permitted'.</p> <p>I would be keen to support a legislative move to restrict the sale and/or use of these items to prevent or mitigate their use on private land as well.</p>
<p><b>10.</b></p>	<p><b>Question from Carl Williams to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>People across the town still have no idea why boots corner is closed and you give no real explanation. Please explain? Has the town had an increased pollution rate since the closure? Yes Is there more congestion? Yes Is footfall in shops down? Yes Are people staying away because of our road system? Yes Do the emergency services support the closure and increased traffic in other areas? No (I have spoken to many emergency services people and all do not understand it) Is the boots corner pedestrianised? No buses and taxis still travel through ( these vehicles are the highest pollutants) Have you made alternative routes or altered the road system to cope? No Have you reduced the amount of available parking for disabled people? Yes and no provision near the centre of town</p> <p>The majority of the people in this town are fed up with this scheme. This development in a very old town centre has not been thought through, if you want to pedestrianise the roads you must</p> <ul style="list-style-type: none"> <li>- provide alternative routes capable of taking the increase in traffic</li> <li>- alter the road system to cope</li> <li>- stop ALL traffic through the centre including buses and taxis</li> </ul> <p>This system is causing mayhem, closing businesses and making people lose their jobs.</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The Cheltenham Transport Plan has been discussed for several decades. Its purpose being to cut the severance of the High Street at Boots Corner of several thousand vehicle movements per day. Town centres are under pressure as never before as a result of global changes such as the rise of internet shopping and this Council has responded by encouraging the maintenance of the vibrancy for which Cheltenham is known. A host of changes have been supported in the town centre (such as new employment, housing, leisure, retail and food offers) and including changes to the road system and encouraging people (where they can) to change their transport patterns by promoting walking, cycling and public service vehicles.</p> <p>Earlier data showed that most of the traffic passing through Boots Corner was local (within 3 miles of the vehicle registered address) so it is difficult to see how that was adding to the economic performance of the town, merely providing a route right through the heart of the town.</p> <p>The data on traffic movements and has yet to be released by colleagues</p>

	<p>at County highways but it would not be surprising for traffic flows overall to fall as individuals re-appraise their journeys and seek alternatives; this phenomenon has occurred elsewhere. Pollution data needs to be measured over a year to meet DEFRA requirements so again it is too early to tell. However, with traffic levels falling by more than 80% through Boots corner the air quality in the town centre is set to improve. Stagecoach has also made a significant investment in low emissions vehicles so it is wrong to say that buses and taxis are the highest polluters.</p> <p>The town has been markedly busy with the Literature Festival and the imminent opening of John Lewis will only add to that. So the suggestion that people are staying away is not borne out. In fact I am advised that footfall at the Brewery is up significantly.</p> <p>I am unaware of any issues from emergency services which are in any case exempt under the traffic regulations so can still pass through Boots Corner.</p> <p>The area cannot be fully pedestrianised as the majority of people in the town centre are brought in by bus and unfortunately due to the historic nature of the town centre the buses need to get in and back out. Additionally, full pedestrianisation would prohibit servicing of the buildings in and around Boots Corner, working against the rationale to support the local economy.</p> <p>Motorists now have easier access to car parks so it is wrong to say that this change is stopping people from coming to the town centre, it is designed to have the opposite affect by making the town centre experience that much more attractive by removing vehicle movements that didn't need to be there.</p> <p>Adjustments have been made to the centre at earlier phases and should the scheme become permanent, there will no doubt be other changes necessary to respond to changes alerted to the County Council.</p> <p>Consultation with various representative groups resulted in more not less blue badge bays being introduced prior to the trial starting; all of which are in the town centre.</p> <p>Essentially Cheltenham is late to make such changes to its road network – they have already been implemented in Bath, Oxford, Worcester and Gloucester – so the trial is not radical and by its very nature is seeking feedback and I encourage you to respond  <a href="https://gloucestershire-consult.objective.co.uk/public/trp/phase4/phase4">https://gloucestershire-consult.objective.co.uk/public/trp/phase4/phase4</a></p>
<p><b>11.</b></p>	<p><b>Question from Melissa Ramplin to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>The anti-fur organisation Respect for Animals has contacted every council in the country and rated them according to their policy on selling real fur. Is the portfolio holder aware of the rating given to Cheltenham Borough Council?</p>

	<b>Response from Cabinet Member</b>
	<p>Yes.</p> <p>For information is it at: <a href="http://www.respectforanimals.org/fur-free-markets/the-fur-free-markets-database/listing/cheltenham-borough-council">http://www.respectforanimals.org/fur-free-markets/the-fur-free-markets-database/listing/cheltenham-borough-council</a></p>
<b>12.</b>	<b>Question from Melissa Ramplin to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>What is the Council's position on the sale of imported real fur on Council land, given that fur farming (which accounts for over 85% of real fur) and the trap most commonly used to kill wild animals for fur has been banned in the UK for some time?</p>
	<b>Response from</b>
	<p>The council actively discourages the sale of real fur on any markets it has responsibility for.</p> <p>In a supplementary question Miss Ramplin queried how the Council actively discourages the sale of real fur and how effective does the Cabinet Member feel these efforts are?</p> <p>The Cabinet Member explained that they frequently have discussions with traders to discourage the sale of real fur, however, acknowledged that there was a tendency for traders to pass off real fur as fake fur.</p>
<b>13.</b>	<b>Question from Peter Sayers to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>There were two consultations held before the Boots Corner closure trial was imposed. Both rejected the closure. What weight will be placed on any citizens and business owners objections to the trial against the need to develop the rear of the Municipal Offices?</p>
	<b>Response from Cabinet Member</b>
	<p>The Cheltenham Transport Plan has been under discussion for many years. It was included in the local plan in 2008 following 3 major consultation exercises which showed strong support with about two thirds of residents in favour of the improvements to the town centre including closing Boots Corner to through traffic.</p> <p>This is why CBC requested that GCC as highways authority consider the changes to the road network. GCC in turn conducted a further consultation as part of the road traffic order process. This resulted in a phased approach with a trial at Boots Corner. This would suggest that concerns were listened to and that feedback from the current trial will equally be considered.</p> <p>Whilst there exists a CBC adopted urban design framework for Royal Well and the Municipal Offices, there is currently no scheme to develop the rear of the Municipal Offices.</p> <p>In a supplementary question Mr Sayers reported that recent statistics from a consultation on the Boots Corner closure show that 72% of people</p>

	<p>objected to the plan in the consultation and 94% were opposed to the scheme. He queried what action would be taken if a similar number of objections were received this time?</p> <p>The Cabinet Member disputed the statistics Mr Sayers was reporting on and stated that he was unaware of the survey he was referring to. He advised that 3 consultations had taken place since 2008 which showed that two thirds of people were in favour of the scheme. He reiterated that this was not a consultation but a trial to see where the flow of traffic would divert to and to identify what measures could be taken to make the scheme more effective. They were welcoming feedback from the public was welcomed and work was ongoing to mitigate any issues arising.</p>
<b>14.</b>	<b>Question from Peter Sayers to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>The risk to residents and visitors to the town due to many thousands of vehicles now diverting into residential streets need quantifying. There are a number of recent large scale studies that indicate the risks from particulate and gas pollution. For example: <i>Particulate Matter Air Pollution and Cardiovascular Disease</i> (<a href="https://www.ahajournals.org/doi/full/10.1161/cir.0b013e3181dbeece1">https://www.ahajournals.org/doi/full/10.1161/cir.0b013e3181dbeece1</a>) which found among other threats to health, that 'Exposure to PM &lt;2.5 µm in diameter (PM2.5) over a few hours to weeks can trigger cardiovascular disease-related mortality and nonfatal events'.</p> <p>Another example: <i>Short-term exposure to traffic-related air pollution and daily mortality in London, UK</i> (<a href="https://www.nature.com/articles/jes201565">https://www.nature.com/articles/jes201565</a>)</p> <p>It appears from the recent research that particulate and gas pollution risks are higher than previously assumed.</p> <p>For a scheme of this size with so many vehicles involved, mobile comprehensive gas and particulate monitors before and during the trial should have been put in place and relocated as the traffic 'finds its way'. Can the Council explain why this has only been partially implemented in a few fixed locations and how the criteria to judge the success or otherwise of the Boots Corner trial will be evaluated without comprehensive data that would reassure all concerned?</p>
	<b>Response from Cabinet Member</b>
	<p>I welcome the wider debate and note the studies identified. Whilst taking different approaches both support the basis for which the original Local Sustainable Transport funding was secured, namely to encourage alternative travel methods, notably walking, cycling and public service provision, and thereby reduce the polluting effects of travel. In the case of Cheltenham the added bonus was an opportunity to reduce the severance at Boots Corner and hopefully sustain the performance and vibrancy of the High Street/Town centre.</p> <p>Since securing that funding via GCC, we also welcome national measures to reduce individual sources of pollutants such as Euro 6 compliant diesel engines.</p> <p>Initial indications from the traffic data collected since the trial was implemented in June is that most of the traffic that used to use Boots Corner has spread over other routes or has found alternative wider-afield routes. Simply put a significant percentage of journeys through Boots</p>



	<p>Corner were ‘through’ journeys and motorists have found better ways to make these journeys including some switching to public transport. This data has followed what the original transport modelling work indicated that the impact on other routes would not be significant or significantly increase the air quality issues. This will be evaluated as part of the trial and a full report presented to the GCC TRO Committee before any decision is made to if the trial is to become permanent.</p> <p>In a supplementary question Mr Sayers noted the alarming results from recent studies in to the harmful effects of pollution. He queried why more money had not been spent on robust monitoring measures instead of the temporary fixtures which had been placed around the town.</p> <p>The Cabinet Member acknowledged that air pollution was an extremely important topic and noted the results of the recent studies. He advised that during a trial conducted by Gloucestershire County Council 27 stations across the town were monitoring levels of air pollution. Separate to that the Borough Council also undertook air pollution monitoring. Cheltenham had 3 hotspot areas where the pollution levels exceeded the national air quality limits.. However, following the completion of phase 1 and phase 2 of the transport plan 2 out of 3 of these areas no longer exceeded the national air quality limits. He reiterated that initial indications show that the majority of traffic that used to use Boots Corner had either found alternative wider-afield routes or opted to use public transport/cycle. It was important to note that the purpose of the transport plan was to reduce air pollution across the whole town not just around Boots corner and initial indications showed that the impact on other routes had not been significant with regards to air quality issues. Pollution levels across the town were actually reducing as a result of CBC policies.</p>
<p><b>15.</b></p>	<p><b>Question from Christine Nicholls to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>In light of the fact that market stalls are becoming a key place for real fur to be sold (particularly as cheap fur bobble hats) and recent national coverage of real fur being sold at markets as fake, what steps has the council taken to ensure such scandals do not afflict market places in Cheltenham?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The council actively discourages the sale of real fur on any markets it has responsibility for.</p> <p>The up and coming street trading policy review and consultation will include proposals relating to the sale of fur and these will be subject to public consultation.</p>
<p><b>16.</b></p>	<p><b>Question from Christine Nicholls to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>What steps has the Council taken to find out whether stallholders will be selling real fur at this year’s Christmas Markets taking place on Cheltenham Borough Council run land?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>For the avoidance of doubt, Cheltenham Borough Council as a district authority, does not own the highway on which the Christmas Market operates.</p>

	<p>The council has been in communication with the market operator and has expressed the need to avoid the sale of real fur. The council's policy does not at present expressly prohibit the sale of fur.</p> <p>However, our current street trading policy is being reviewed and we will shortly launch a consultation on a revised policy. There are a number of issues that we are currently looking at as part of the policy review, including, the sale of real fur.</p>
<b>17.</b>	<b>Question from Sophie Nicholls to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Will the upcoming review of Cheltenham Borough Council's licensing policy take a fur free markets policy into account?
	<b>Response from Cabinet Member</b>
	<p>As stated in answer to Qu 16, it is an issue that is being taken into account yes.</p> <p>The policy will be subject to public consultation which is the opportunity to contribute to the formulation of the revised trading policy.</p>
<b>18.</b>	<b>Question from Sophie Nicholls to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Will the upcoming review of Cheltenham Borough Council's licensing policy seek the input of NGOs about the highly contentious issue of real fur being sold at Cheltenham markets?
	<b>Response from Cabinet Member</b>
	The policy will be subject to public consultation which is the opportunity to contribute to the formulation of the revised trading policy. As a public consultation, there will be opportunity for all, including NGOs, to get involved.
<b>19.</b>	<b>Question from Gilly Whittingham to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Are you aware of any market stalls that both 1) sell real fur and 2) either currently operate on Cheltenham Borough Council run land or are planning to over the Christmas period?
	<b>Response from Cabinet Member</b>
	We are not aware of any no.
<b>20.</b>	<b>Question from Gilly Whittingham to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	What steps has the council taken to develop a policy relating to the sale of real fur on council land?
	<b>Response from Cabinet Member</b>
	The sale of real fur is an issue that is being considered as part of the current policy review. The policy will be subject to public consultation which is the opportunity to contribute to the formulation of the revised trading policy
<b>21.</b>	<b>Question from Jane Foster to Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	The TRO Committee promised the residents of this town that traffic would be monitored so that impact could be assessed. Given the absence of traffic counters in key residential areas like Bath Rd, College Road, St George's St (only NO2 monitor), Hewlett Rd, All Saints Rd, Montpellier Terrace, etc, how will this council get a complete picture of the traffic shift

	<p>in the town, and what will they do going forward to ensure a full and complete set of data is presented in order to make valid decisions around the Boots Corner trial? This is vital and no valid assessment of impact can be made without it.</p>
<p><b>Response from Cabinet Member</b></p>	
	<p>Gloucestershire County Council colleagues have a network of 27 traffic monitoring points which formed the baseline prior to any phases being implemented and is designed to give robust and sufficient data in order to evaluate the trial. Clearly for consistency sake these monitoring points have remained the same and the data has been evaluated after each phase to identify impact. The full set of monitoring points is listed below.</p> <p>Monson Ave Clarence Square All Saints Road Fairview Road Bayshill Road College Road St Georges St High Street St James Square Imperial Square Southern Arm Montpellier Spa Road Poole Way St. Johns Ave High Street London Road St. George Road Imperial Sq Northern Arm Ambrose St Rodney Road Albion Street Gloucester PI Winchcombe St North North Place Clarence Street St. George PI Royal Well Road Winchcombe St South</p>
<p><b>22. Question from Simon Firkins to the Leader, Councillor Steve Jordan</b></p>	
	<p>It is proposed to implement CIL in January 2019, at a rate of £200 per square metre for sites between 11 and 449 <u>units</u>. This will be harmful to small and medium sized builders who focus on these often brownfield sites with higher abnormal development costs; and unlike national homebuilders on strategic, greenfield sites smaller builders do not benefit from huge economies of scale.</p> <p>Please consider a review of CIL leading a lower CIL charge for non-strategic schemes, and to introduce a zonal system which properly reflects the clear difference in values across the Borough?</p>

	<p><b>Response from Cabinet Member</b></p> <p>As set out in the papers of Agenda item 9 of today's meeting, the CIL charge, including non-strategic schemes has been consulted upon and examined by an Independent Inspector.</p> <p>The CIL examination considered detailed evidence on viability and land values, both that presented by the JCS councils and the development industry. The CIL charge before us today reflects examiners recommendations. On this basis I do not support a review.</p> <p>In a supplementary question Mr Firkin's queried whether it would be possible to reduce the threshold for sites between 11 and 100 units due to the detrimental effect the CIL implementation would have on small and medium sized businesses.</p> <p>The Cabinet Member advised that the CIL had already been developed, advertised and consulted on, if they were to make any amendments at this stage they would be back to square 1.</p>
<b>23.</b>	<p><b>Question from Simon Firkins to the Leader, Councillor Steve Jordan</b></p> <p>In the event that a review of the charging rate and a zonal system is not taken forward, will the council please agree to a far more appropriate lead in time for the implementation of CIL? This will allow <u>all</u> those involved in the process to plan properly for its implementation and provide the resources to 'clear the decks' of current and pending proposals; and give the opportunity for dialogue and training for all those that might be involved with and influenced by CIL and its implementation.</p>
	<p><b>Response from Cabinet Member</b></p> <p>The Council's approach to CIL has been in the public domain since 2015 and as such the development industry has been aware of the council's intention to implement a CIL charge.</p> <p>CIL is not a new charge and has been in legislation for a number of years, with many authorities already with an adopted charge. Within the context of the legislation we could set an earlier commencement date, however, we have chosen to recommend the 1st January 2019.</p> <p>In a supplementary question Mr Firkins felt that more consideration should be given to small local developers who should be given sufficient time to prepare for the implementation.</p> <p>The Leader explained that whilst they were sympathetic to small local developers the JCS was in place and therefore there could be no delay in implementation of CIL.</p>

**8. MEMBER QUESTIONS**

<b>1.</b>	<p><b>Question from Councillor Louis Savage to the Leader, Councillor Steve Jordan</b></p> <p>Can he confirm that Cheltenham Borough Council uses the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism?</p>
	<p><b>Response from Cabinet Member</b></p> <p>Cheltenham Borough Council has robust anti-discrimination policies</p>

	<p>including tackling racism. We work with the Cheltenham Hebrew Congregation and Gloucestershire Liberal Jewish Community to hold an annual act of remembrance on national Holocaust Memorial Day at the Council Offices and provide small grants to support this. We have good relationships with the community in Cheltenham. CBC is also represented on the county Hate Crime and Incident Strategic Group and recently held staff training on hate crime. To my knowledge the definition of antisemitism has never been an issue but if it was we would use the definition referred to.</p> <p>In a supplementary question Councillor Savage queried whether there was any merit in adopting this in to the Council's policy in order to send out as strong a message as possible to the Jewish community.</p> <p>The Cabinet Member stated that he would be happy to take this away and put all the necessary steps in place.</p>
<p><b>2.</b></p>	<p><b>Question from Councillor Louis Savage to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>Engine-idling is a major contributor to air pollution. Buses, delivery vehicles and private cars can frequently be observed running engines whilst stationary in Cheltenham town centre.</p> <p>Can he explain the steps which CBC has taken to address this issue? What enforcement powers, if any, are available to the council?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>Engine idling is a contributor to air pollution. It is important to recognise the difference between vehicles stopped in traffic and stationary vehicles with the engine running (true "idling"). Buses from the Stagecoach fleet are fitted with monitoring devices that record fuel consumption, and drivers are encouraged to stop engines when stationary, if they do not, then the engines automatically cut out after a fixed period. It is also important to note that Stagecoach buses often sound like the engines are running, when actually the noise is from an air conditioning fan. Other bus companies do not operate such a system, and also operate (generally) older vehicles. The Public Protection team are currently considering options for further enforcement against idling vehicles as a specific operation or in connection with particular events.</p> <p>Enforcement powers are available in: The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. Powers are only available on application to Secretary of State and only applicable in an Air Quality Management Area (AQMA). Currently the whole of Cheltenham is an AQMA, however monitoring of pollution levels over the last few years have indicated that most of the Borough meets legal limits for air pollution and the whole-borough AQMA is inappropriate. The Public Protection team is working towards reducing the AQMA to a much smaller area, to allow us to concentrate efforts on dealing with the most affected area. The Regulations specify two offences, one is "Stationary idling", which carries a Fixed Penalty Notice of £20, and the other is an "Emissions Offence" with a Fixed Penalty Notice of £60. The FPN fee for the idling offence is so low it is barely economic to try and enforce it. The emissions offence requires vehicles to be stopped on the highway (requiring the help of the Police), tested using specialist equipment that</p>

	<p>either needs to be bought or hired in, which again has cost recovery implications.</p> <p>In a supplementary question Councillor Savage queried whether the Council had any scope to change the fixed penalties for idling and felt it key the Council work with local partners having observed a police car parked with its engine on for over 30 minutes.</p> <p>The Cabinet member acknowledged that engine idling was the single biggest cause of pollution, however, it is not within the council's gift to change the penalties. He also acknowledged the importance in working with local partners to meet the Councils objectives.</p>
<p><b>3.</b></p>	<p><b>Question from Councillor Dilys Barrell to Cabinet Member, Healthy Lifestyles Councillor Flo Clucas</b></p>
	<p>Can the Cabinet Member please outline any information that she has in relation to the numbers of young people who are self-harming in Cheltenham, what contributory factors there are, and how the problem might be addressed?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The council has recently received a children's needs assessment that has been pulled together by officers at Gloucestershire County Council's Strategic Needs Assessment Team. Data from the needs assessment will be shared at a seminar on Weds 7th November to which all elected members have been invited.</p> <p>In terms of the statistics on self-harm the rates of admission for self-harm in Under 18s in Cheltenham (150.6 per 10,000) was above the Gloucestershire rate of 141.5 per 10,000. The chart below shows several wards but particularly St Mark's had significantly higher rates than both the Cheltenham and Gloucestershire rates in the same period.</p> <p>Admissions for self-harm in Cheltenham were predominantly for children aged 10-19, following the Gloucestershire trend, with slightly higher numbers recorded in the 15-19 age group compared to the 10-14 age group. Whilst the numbers of under 18 admissions for self-harm in Gloucestershire have reduced by 46.9% over the period 2013/14 to 2017/18, in Cheltenham however the number has increased by 51.7%.</p> <p>However, when looking at the number of Under 18 admissions by deprivation quintile, Cheltenham does not follow the national trend of self harm increasing with deprivation levels. The data shows Quintile 5 (the areas with lowest deprivation) had the highest number of Under 18 admissions in Cheltenham over the 5 years 2013/14 to 2017/18. However a much higher proportion of children in Cheltenham live in this quintile than in many areas of the county.</p> <p>In a supplementary question, Councillor Barrell requested that the Cabinet consider the contributory figures at the seminar on 7<sup>th</sup> November.</p> <p>In response, the Cabinet Member advised that following the seminar they were commencing a year of action during which a number of measures were being taken to assist schools and parents in reducing the vulnerability of young people. The Mayor confirmed that he would be</p>

	happy for Councillor Barrell to assist in the organisation of the year of events.
<b>4.</b>	<b>Question from Councillor Diggory Seacome to Cabinet Member, Development and Safety, Councillor Andrew McKinlay</b>
	Can Andrew McKinlay please tell me if there is any update on my suggestion (which he agreed was being considered) to alter the entrance to Post Office Lane so that traffic coming from the Boots side could escape down it, thus bringing the benefit of deliveries being made possible to residents in that stretch of the road.
	<b>Response from Cabinet Member</b>
	<p>The traffic flow along Post Office Lane was reversed as part of the phase 4 trial such that traffic can legally enter from the North but not South. This allows traffic either delivering or inadvertently heading towards the bus gate to legally avoid the enforcement camera. In addition, GCC are putting up signs to clearly indicate that loading and unloading should be done in designated bays only and that the lane should not be blocked. The BID are also speaking to the local businesses to explain the importance of communicating the loading/unloading information to their suppliers. GCC are also investigating a long term solution which will put a no-stopping traffic regulation order on Post Office Lane.</p> <p>In a supplementary question Councillor Seacome asked for a timeframe for this.</p> <p>The Cabinet Member acknowledged that there was not an ideal solution for Post Office Lane. He advised that phase 3 of the transport plan to make Clarence Parade/ Clarence Street 2 way was not yet complete although this had been approved by the TRO committee so could be undertaken without doing trial works for phase 4. He reported that traders had expressed concern in terms of access for deliveries and he acknowledged that this was a problem. He advised that the current consultation on the TRO ran until December and a TRO committee report would be submitted in February.</p>
<b>5.</b>	<b>Question from Councillor Baker to Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b>
	Can I ask the Cabinet Member what progress has been made in stopping the use of single use plastic by this Council and its associated organisations e.g. Leisure@?
	<b>Response from Cabinet Member</b>
	<p>The Council recognises its role as leader in respect of this issue and that there is a huge opportunity for the authority to influence change, both directly through its own procurement processes and indirectly through its relationship with partner organisations. We appreciate the urgency of this issue particularly in light of the scale of the problem highlighted by Blue Planet and the 'Drowning in Plastic' programmes on the BBC.</p> <p>At the Council meeting on 26 March, Members were advised that since December 2017, the officers began to purchase wooden stirrers instead of plastic stirrers and to purchase paper cups rather than the Polyethylene PE coated cups for the member's room.</p>

	<p>Plastic water cups are only made available at the water machines in the committee suite which are collected for recycling. Elsewhere throughout the building staff are expected to use their own drinking receptacles.</p> <p>The general use of the vending machine is low and officers are currently in dialogue with the supplier to explore options for the machine including alternatives to the use of plastic cups.</p> <p>Since March, the former vending machine in the Municipal Offices which dispensed drinks in plastic cups has been replaced with a machine which dispenses paper cups which are compostable. The new machine also enables users to dispense drinks into their own cups.</p> <p>We are still using up the stock of plastic cups used for the water machine and members vending machine, and plastic stirrers, but should soon be moving on to using recyclable and biodegradable products.</p> <p>Both Officers and Members are continuing to encourage our partner organisations to choose alternatives to plastics where it is practical to do so. UBICO and the Trust have been asked to provide an update and this will be forwarded to members.</p> <p>In response, Mr Baker thanked the Cabinet Member and felt satisfied that good progress was being made. He did, however, feel that there was a bigger issue at the Lido and Leisure@ and hoped a response would be received shortly from them. He advised that Cheltenham now has a plastic free campaign and felt it may be beneficial for Karen Watson to get involved in the operation.</p>
<p><b>6.</b></p>	<p><b>Question from Councillor Baker to Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b></p>
	<p>I have been delighted to see how many of our local retailers have dropped the use of single use plastics such as plastic straws and cutlery but many continue to use single use plastic in large quantities. Could we consider the introduction of an award to recognise retailers who have stopped using single use plastics perhaps by issuing a window sticker and having a roll of honour on our website ?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The Government's new waste and resources strategy is due to be published this autumn and it is expected to set out significant changes for waste and recycling. The requirements of the new strategy are expected to build on the EU circular economy commitments and shape how communities and local authorities approach reduction, re-use and recycling.</p> <p>Any suggestions for reduction, re-use and recycling can be reviewed as part of the new waste and resources strategy and taken forward where possible. The suggestion of an award will be considered and if members have any other suggestions relating to waste and recycling or street</p>



	cleansing initiatives please forward them to Karen Watson, <a href="mailto:Karen.watson@cheltenham.gov.uk">Karen.watson@cheltenham.gov.uk</a> .
<b>7.</b>	<b>Question from Councillor Baker to Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b>
	Can we have an update on the success of our recent kerbside recycling initiatives?
	<b>Response from Cabinet Member</b>
	<p>The enhanced recycling service was introduced in October 2017 and was so successful that additional capacity was required to collect the increased recycling presented at kerbside.</p> <p>In addition to glass, paper and tins, householders are now able to present more plastics at kerbside - plastic pots, tubs and trays, as well as black plastic, can now be put into the recycling boxes. Householders are also able to present small electrical items, batteries, textiles and shoes and more cardboard.</p> <p>Total Household Waste Recycled, Composted, AD &amp; Reused is measured by a national performance indicator, NI 192, and this measure demonstrates that Cheltenham's household recycling rate has increased from 48.39% in March 2018 to 52.72% a year as at August 2018.</p>
<b>8.</b>	<b>Question from Councillor Martin Horwood to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Does the Cabinet Member reject the county council's changed proposal for the site of a new Leckhampton secondary school which would encroach on the Local Green Space in the draft Cheltenham Local Plan and potentially add significantly to local traffic congestion by allowing both the new school and the housing it was going to replace?
	<b>Response from Cabinet Member</b>
	<p>On 20<sup>th</sup> September 2018 we were notified of the County Council's intention to prepare a planning application in an area proposed by the Cheltenham Plan as Local Green Space. In this notification a request was made to change the Cheltenham Plan designation of Local Green Space and allocate land to accommodate a secondary school.</p> <p>We had a detailed debate at council on 11 December 2017 regarding the location of land to accommodate a new school and designation of Local Green Space. Having carefully considered the implications of changing the plan to accommodate the request made by Gloucestershire County Council, I am of the view that the Cheltenham Plan, as consulted upon earlier this year, remains sound and that development should remain to be focussed in the allocation already established by Cheltenham Plan policy MD5.</p> <p>In response, Councillor Horwood queried whether the Cabinet shared his sentiment that the County Councils' behaviour showed contempt for the local plan and Cheltenham Borough Council? He was extremely alarmed at the County Council's behaviour to move the school to an area previously allocated for Green Space in the Cheltenham local plan at the eleventh hour.</p>

	<p>The Cabinet Member agreed that the County Council's behaviour had been unacceptable, particularly given the fact that the senior education officer at GCC had been in attendance when the matter had been debated at Council on 11<sup>th</sup> December 2017. He stated that they would be defending the local plan which had been submitted to the inspectorate.</p>
<b>9.</b>	<b>Question from Councillor Martin Horwood to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>Will the council defend the boundary of the proposed Local Green Space in Leckhampton in the draft Cheltenham Local Plan now that the draft plan has been submitted to the Inspectorate?</p>
	<b>Response from Cabinet Member</b>
	<p>The Cheltenham Plan has moved to submission. We will be defending the policies of the Plan as agreed by Council on 11<sup>th</sup> December 2017.</p>
<b>10.</b>	<b>Question from Councillor Martin Horwood to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>Was the county council consulted on the boundary of the Local Green Space before the draft Cheltenham Local Plan was submitted and, if so, over what period?</p>
	<b>Response from Cabinet Member</b>
	<p>Gloucestershire County Council is a statutory consultee and as such was consulted on the Cheltenham Plan as a whole, this included Local Green Space. However, we worked very closely with the education and property teams in the lead up to the consideration of the Plan, including representation by the Head of Education at the council meeting on 11<sup>th</sup> December 2017.</p> <p>A representation was formally submitted to the Pre Submission consultation of the Cheltenham Plan on 23<sup>rd</sup> March 2018 by Gloucestershire county Council which states "I am writing to reconfirm that the most appropriate location for the new secondary school is using a combination of GCC land at Farm Lane, Leckhampton together with part of the land south of the Shurdington Road, Leckhampton. I am therefore writing in support of your Plan Pre- Submission that part of location MD5 be identified specifically to include provision for a secondary school site."</p>
<b>11.</b>	<b>Question from Councillor Martin Horwood to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>When did the county council inform this council of its intention to change the proposed location of the new Leckhampton secondary school and when did they allow this to be made public?</p>
	<b>Response from Cabinet Member</b>
	<p>The Council received formal notification in a letter received 20<sup>th</sup> September 2018.</p>
<b>12.</b>	<b>Question from Councillor Martin Horwood to the Cabinet Member Development and Safety, Councillor Steve Jordan</b>
	<p>When did the county council confirm to this council that it had reserved to itself the right to give the new Leckhampton secondary school planning permission and is this open to legal challenge?</p>

	<b>Response from Cabinet Member</b>
	<p>Recognising the sensitivities of the site at Leckhampton, Cheltenham officers engaged with Gloucestershire County Council officers on whether the planning application could be delegated to the Planning Committee of Cheltenham Borough Council. Positive engagement on this issue took place and verbal agreement reached with the Head of Education that this could be actioned.</p> <p>We became aware of the change in position of the County Council at the end of April 2018.</p> <p>Applications for school provision are classed as a Regulation 3 application as defined by the Town and Country Planning Regulations. For such applications the County Council is deemed to be the Local Planning Authority. The planning application will be managed by the development Management team of the County Council.</p>
<b>13.</b>	<b>Question from Councillor Stephen Cooke to the Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b>
	<p>Under the new green box recycling scheme, Cheltenham Borough residents spend time sorting out their recycling into separate categories and quite reasonably seek reassurance that this effort is worthwhile. What proportion of plastic put in to recycling bins is actually sent for recycling?</p>
	<b>Response from Cabinet Member</b>
	<p>All plastics presented for collection at the kerbside are recycled.</p> <p>As part of the continued promotion of recycling, I have asked officers to make more information available on the website to promote what happens to all the materials we recycle. From next week, food crews will be stickering green wheeled refuse bins to remind householders to present any food waste they generate.</p> <p>In a supplementary question Councillor Cooke cited a Local Government Association report which stated only one third of plastic was being recycled. He queried what audit trail there was to satisfy the Council that the recycling was being done?</p> <p>The Cabinet Member acknowledged that the scheme could be confusing for residents, however, he felt confident in the contractual arrangements with the joint waste team and that the necessary recycling was taking place.</p>
<b>14.</b>	<b>Question from Councillor Stephen Cooke to the Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b>
	<p>When residents have problems with collection of their waste or recycling bins they are advised to contact the council cleansing department at an '@cheltenham.gov' email address who liaise with Ubico to arrange or reschedule collection.</p> <p>As Ubico is a related but separate organisation from CBC, will the Council review the contact mechanism to ensure clear and direct lines of communication and responsibility exist between residents and Ubico?</p>
	<b>Response from</b>

	<p>Customer queries are dealt with by the Council's customer services' team, including those relating to waste, recycling, grounds maintenance and street cleansing. UBICO staff deal directly with householders where issues are not straight forward. The Council, in conjunction with UBICO, is reviewing the need for a technological solution to improve communication with householders, the Council and UBICO.</p> <p>In a supplementary question Councillor Cooke noted that as residents pay for bins to be emptied via their council tax would the Council consider financially compensating them for late collections which could incentivise Ubico ?</p> <p>The Cabinet Member advised that following the service redesign a first class service was now being offered to residents and a positive recycling offer with the scheme being more successful than predicted. He refused to accept that Ubico and CBC were underperforming.</p> <p>He explained that customers relations surrounding waste and recycling had been intentionally retained in house and if there were any particular issues relating to refuse Members could come to the Cabinet Member with them directly.</p>
<p><b>15.</b></p>	<p><b>Question from Councillor Stephen Cooke to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>Disabled parking provision is about access and equity for those who do not have the same choices as able bodied residents. Severely disabled residents may be disadvantaged despite the mitigation measures highlighted at the last council meeting and instituted as part of the reconfiguration of roads and disabled parking following the Boots corner closure. As a result, some may lose independent access to the town centre in which they live.</p> <p>What measures are the Council taking to ensure equitable provision and access for those with the most severe disabilities who cannot take advantage of the mitigation measures so far proposed, and will the Cabinet member be prepared to meet with me to consider measures to address exceptional cases?"</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>Prior to the trial starting and in line with all other phases, meetings were held with representatives of various disability representative groups. This resulted in the additional blue badge parking bays being included in the scheme.</p> <p>There are however alternatives for those individuals for whom these bays do not work. These include</p> <ul style="list-style-type: none"> <li>• the CBC shop mobility scheme which will deliver a scooter to a central car park if accessing the office is challenging</li> <li>• public service bus; all of the Stagecoach fleet in Cheltenham is low floored but again this assumes that an individual can access a bus stop picking up point</li> <li>• taxis which are also exempt from the restrictions. CBC is encouraging that more taxis are fully disable compliant</li> </ul> <p>I am happy to discuss any specific concerns with Cllr Cooke.</p>

	<p>In a supplementary question Councillor Cooke firstly wished to pass on his thanks for the work that had already been done around improving the disabled parking. However, he still felt that the arrangements were not adequate for those most severely disabled. He asked whether the Council were prepared to take a number of additional interventions i.e. a limited number of day tickets for the disabled.</p> <p>The Cabinet Member confirmed that he was happy to make revisions to the on street and off street parking in order to make it accessible for everybody, he was happy to discuss the specifics further with Councillor Cooke.</p>
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**9. COMMUNITY INFRASTRUCTURE LEVY (CIL) FORMAL ADOPTION OF CHARGING SCHEDULE AND SUPPORTING POLICIES, APPROVAL OF REGULATION 123 LIST FOR PUBLICATION AND SETTING A COMMENCEMENT DATE FOR CHARGING**

The Leader introduced the report which sought Council adoption of a Community Infrastructure Levy (CIL) Charging Schedule and supporting policies, alongside approval of a list of infrastructure that may be funded from CIL (Regulation 123 list) for publication and to set a commencement date for charging of 1st January 2019. He explained that this had been worked up over a number of years and formal public consultation and a formal examination in public had taken place. Tewkesbury Borough Council were due to consider the report that evening and Gloucester City Council the following week.

He stated that the CIL was a charge levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from development to help pay for strategic and community infrastructure. This could include schools, leisure centres, older peoples care accommodation, roads and other facilities to ensure the demands arising from the JCS are accommodated sustainably.

CIL replaces only the parts of Section 106 agreements which have previously been used for this purpose. Section 106 should continue to be used for affordable housing and would be used for site specific infrastructure needed to make a specific development site acceptable in planning terms.

The Leader explained that it had been a complicated process and if issues arose then there would be an opportunity for review. The Inspector fully supported it. He reported that there was one change, which did not apply to Cheltenham and which had been circulated that morning in the form of published amendments to Members. One supporting policy included making instalments more flexible in how they were received and the timescale in which they were received.

He informed that implementation of CIL was scheduled for 1 January 2019. It was vital that CIL was implemented since the JCS was in place but it could be reviewed at the discretion of the council.

Members made the following comments to which the Leader/Director Planning responded:

- Recognised it was a far reaching and technical proposal and had been a lengthy process involving experts, surveyors and consultants
- Reference was made to the fact that many other authorities had come to different conclusions about CIL and some had not set it at all in urban areas. Flexibility was key to see how it would suit the town. Concern was expressed about the impact on affordable housing as the levy would make developments less viable. It was felt that this should be monitored very carefully. In response the Leader agreed that affordable housing was indeed essential and the main thrust of policy was to get affordable housing as well as CIL. He said that time would tell if this was justified or not.
- The point was made that there were no allowances to take into account sites which had been empty for three years. Such sites should be encouraged to be developed.
- The impact of CIL on house prices was also of significant concern as the cost to the developer would be passed on to the end user. It was suggested that an intermediate banding be introduced to facilitate smaller schemes undertaken by smaller builders
- Surprise was expressed as to why there was NIL CIL for retail and commercial projects which were just as significant as residential. Whilst aware that the JCS councils were in the process of reviewing retail policy the lack of contribution from commercial development was deemed to be a mistake.
- Members felt that there needed to be a thorough review within 2 years to ascertain what had worked and what had not worked well.
- Whilst welcoming the prospect of having more funds to invest, a Member was unclear as to how any flexibility could be leveraged within CIL to acknowledge strategic objectives such as development of brownfield sites, social housing and stalled housing developments. In response the Director of Planning explained that there were potential exemptions but these were not under discussion at this stage. If an exemption was needed these would be considered on an individual basis. In terms of the instalments policy it was important that there was consistency between the authorities as this was helpful to the development industry. She explained that social housing was not part of CIL and it had to be based on viability evidence.
- One Member called for a more immediate 6 month review of CIL in order to be able to amend/modify accordingly at an earlier stage. The Leader responded by saying that 6 months was too short a timeframe for review.
- A Member questioned why the map on page 5 contained no details of the green buffer zone which could suggest it was available for

development and liable for CIL, giving the example of Swindon Village. The Director of Planning confirmed that in terms of development the JCS maps defined the areas.

- Members identified the risk that CIL would result in large payments meaning developers could not deliver on housing as it would be more difficult to derive a profit. They asked how schemes could be checked for viability in a more transparent way as currently viability reports were not open to public scrutiny. In response the Director of Planning explained that the Government was seeking more transparency on viability of developments. She said that if concerns arose viability reports could be tested independently. All viability work for JCS was in the public domain which the Inspector considered to be appropriate.
- A Member raised the issue of government devolving extra powers in the form of 'devolution deals' and urged Council to use its voice in demanding such powers for Cheltenham, In response the Leader agreed and said that all areas in the whole country should receive a devolution deal rather than it be 'hand picked' and supported the call for CBC to obtain such powers.
- When asked as to whether the ability to review CIL was a CBC decision or whether it had to be done in partnership with Gloucester and Tewkesbury the Director of Planning confirmed this was a Cheltenham CIL and therefore Cheltenham was the individual charging authority. There was a joint governance group but also separate decisions were required from the relevant authority.

The Director of Planning highlighted to Members that the intention was to continue with engagement. The points raised by Members had been debated at the examination. The devil was in the detail and it was indeed important to keep CIL under review.

## **RESOLVED (unanimously) THAT**

**1. the Cheltenham Borough Council Community Infrastructure Levy Charging Schedule modified in line with the recommendations of the Independent Examiner, as set out in the Modified Appendix A 'Charging Schedule' and 'Policy Maps' at Appendix B be approved.**

**2. the following supporting policies be adopted:**

**a. Payment by Instalments (Regulation 69b), as set out in the Modified Appendix D 'Payment by Instalments' Policy**

**b. 'Request for Review and Appeals' Policy (Part 10), as set out at Appendix E**

**3. the Regulation 123 List for Cheltenham Borough Council for publication, as set out at Appendix F be approved**

**4. a commencement date for charging of 1 January 2019 be set, in line with Joint Core Strategy (JCS) partner authorities**

**10. JOINT CORE STRATEGY REVIEW ISSUES & OPTIONS CONSULTATION APPROVAL**

The Leader introduced the report and explained that the JCS was adopted in December 2017 with a commitment to undertake an immediate review on the issues of housing supply for Gloucester and Tewkesbury and the retail policies for the whole area. This was recommended by the government appointed Inspector who examined the plan and concluded that this immediate review was necessary in order to find the plan to be 'sound'.

The Leader added that while the immediate review was to be focused on these particular issues the new National Planning Policy Framework (NPPF) had subsequently been published which put new requirements on local plans. This meant that the scope of the review would need to be expanded to be in conformity with national policy.

He explained that fundamentally the JCS review would again look at the growth needs over a 15 to 20 year timescale, what the best strategy was for delivering that growth, and the allocation of strategic sites to help meet these needs. However, it was also an opportunity to review all of the policies contained with the current adopted plan to see if they continued to be effective and consistent with the NPPF.

The Leader then highlighted that the Issues and Options stage of plan making sought to review and generate feedback on the key issues that were affecting the area and set out some of the options that were available to address them. It therefore did not propose a strategy, new sites or policies; this would be for the next stages of the plan.

The Leader informed that an 8 week consultation would commence in November and conclude in January 2019. The aim would be to complete the review by the end of 2022. He suggested that a full review should take place to add value to the JCS and include new ideas such as those emanating from the Gloucestershire 2050 debate. The aim of the questionnaire in the consultation was to encapsulate such issues.

Members made the following comments and responses were given:

- A Member felt that a full review should extend to 2041 as he believed there was a major temptation to 'tweak' the current JCS rather than looking at things more fundamentally.
- Some Members questioned the assumption that development should be achieved via the urban extensions by using green field land or by releasing Green Belt land. The nature of both employment and transport was changing and it was felt that urban extensions had now been taken over by events. One Member gave the example of the environmental impact of travel with the shift towards electric and low emission vehicles. There therefore needed to be a fundamental reassessment.
- A Member made reference to a more sustainable development model in terms of developing new small villages on a satellite basis and building



more human scale communities in rural areas, i.e. a far more dispersed approach.

- A Member questioned if the 5 year land supply issue could not be solved in in the wider JCS area if it could not be accommodated
- It was acknowledged that the JCS had been 14 years in the making. There were tensions with local development due to sensitivities. A Member felt that we should be open and pragmatic to change. The authority should be accountable for development within its control.

In response to the points made the Leader referred to the methodology outlined in the NPPF for housing numbers which calculated the same number already determined in the JCS area. He acknowledged that the 5 year land supply issue was due to the delay in the planning application for North West Cheltenham and the time it took for the Inspector to report.

The Leader thanked Members for their input and urged them to feed their views in to the consultation process which will commence in November.

### **RESOLVED (unanimously) THAT**

- 1. the JCS Review Issues & Options consultation document set out in Appendix 2, be approved for public consultation under regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;**
- 2. authority be delegated to the Director of Planning, in consultation with the Leader to make any minor amendments to the text of the document and make appropriate changes to the design prior to its publication for consultation.**

### **11. HOUSING INVESTMENT PLAN**

The Cabinet Member Housing introduced the report which set out what the Council planned to do in order to bring about the required step change in the delivery of housing. He stated that if approved, these proposals would provide a range of benefits to Cheltenham, not least an increase in the provision of affordable homes and the delivery of private rented homes to be let on a long-term basis, thereby providing more households with greater security of tenure.

This was against the background of a national housing crisis. Social housing delivery was low, and affordable homes had become more unaffordable as house price values continued to rise. Ultimately this had led to a phenomenal growth in the private rental sector but this had still failed to deliver enough homes.. The Cabinet Member stated that since the self-financing changes in 2012 relating to the housing revenue account the council and Cheltenham Borough Homes had endeavoured to provide more homes in the town, albeit few in number. Demand for homes therefore remained high.

To address some of the issues, working within the system the council was now proposing to invest £100 million to enable a significant step change in the delivery of homes.

The proposal for delivery was outlined in the report. Entering into the private sector of the rental market represented a new step, but one which was significant and needed. He made reference to a motion brought to Council by Cllr Wilkinson highlighting the plight of the under 35's. With this broad approach and larger investment, it would provide the council with more flexibility in delivering larger viable schemes, which in turn would present more opportunities for sustainable communities through a blended and balanced tenure mix where possible. In his view this was ultimately not only investing in bricks and mortar but also in shaping communities.

In terms of financing, the Cabinet Member referred to section 5 of the report containing details of a loan facility and grant from this council to Cheltenham Borough Homes.

The £300k grant from unapplied capital receipts would be used to fund additional CBH officer support and external professional fees. It was envisaged that the loan funding would be used wholly or in conjunction with existing housing capital receipts, commuted sums as well as any available grant funding depending on the nature of the individual proposals.

Governance proposals were set out in section 6 of the report and he outlined as follows :

- Cabinet Member Working Group, which would provide oversight and challenge and focus on priorities and outcomes
- Strategic Housing Development Group (SHDG) comprising senior directors from CBC and CBH to develop business cases for review by the Working Group on an individual basis.
- CBC-CBH Housing Supply Review Group (operational) comprising officers to consider all potential supply opportunities, details and evidence.

He emphasised that final approval would be required from the CBH Board, CBC S151 Officer, the Managing Director Place and Growth, Cabinet Housing and the Cabinet Member Finance.

He believed that through this report and member briefing sessions Members should be reassured that this proposed housing investment plan was both clear and robust and sought their approval.

Finally, he wished to put on record his thanks to all the officers involved in the development of this housing investment plan. Working collaboratively with Cheltenham Borough Homes had resulted in this unique and exciting opportunity, providing homes, investing in Cheltenham and shaping the community.

Councillor Babbage proposed the following amendment :

Recommendation 1e) Council requests that a cross party Cabinet Member Working Group is created to consider and recommend viability assessments received from CBH. The CMWG will challenge each site proposal to prioritise and maximise the social benefit with an ambition to not only meet but exceed the councils minimum 40% social/affordable housing target.

In proposing the amendment Councillor Babbage said the Cabinet Member Working Group was a positive step and the 40% target should be exceeded wherever possible in order to maximise the social benefit.

The amendment was seconded by Councillor Payne.

Following a brief adjournment the amendment was accepted as a recommendation by the Cabinet Member Housing.

In the debate that followed the following points were raised and responded to by the Cabinet Member :

- It was both unacceptable and shocking that there were 2200 people on the housing waiting list but this bold and ambitious step to address the issue was to be welcomed
- The report was light on detail regarding oversight and review of the process going forward
- The proposal would give security of tenure in the private rented sector and would thereby help retain young people in the town who were key to its economic growth and prosperity going forward
- The homeless were being failed by the private sector particularly in the light of requirements of private sector letting agents which were now only accepting salaries of £20k plus a year or guarantors earning £20-£30k per year which was totally unrealistic. In addition, many letting agents would not take account of certain types of benefits. This was an intransigent approach making the situation untenable in the town. This should be considered by the Cabinet Member Working Group.
- In response to a question as to what the advantage was when the council had to charge market rent due to competition policy rules the Cabinet Member explained that this would be a more quality product. The market did not offer a fixed 5 year tenancy. In addition there would be an opportunity going forward as any profits could be used to cross subsidise affordable housing.
- The Cabinet Member clarified that Right to Buy only applied to Housing Revenue Account properties and not this private sector housing policy. Discussions on Right to Buy were however ongoing with government.
- A Member highlighted that this plan was not only about housing but building communities, skills and education and mental and physical wellbeing. She made reference to SGEI-Services of General Economic Interest- which were economic activities that public authorities identified as being of particular importance to citizens and that would not be supplied (or would be supplied under different conditions) if there were no public intervention.
- A Member suggested that in terms of annual review, this be brought to Overview and Scrutiny. This was accepted by the Cabinet Member

- When asked whether the council's investment strategy policy reflected on the return expected from providing private rented housing the Cabinet Member explained that there would be capital appreciation over the loan period and the council would be able to comfortably repay associated loans, i.e. there would be a positive NPV (Net Present Value) over 40 years and annuity loans repaid by year 40.
- The plan represented the single most important policy decision this council had taken. Delivery of things want to happen in the town. Number of homes was important and aim was to deliver better communities. Post war communities, learn from experiences. Engage communities affected by development/refurbishment. Holistic approach. Cultural provision all around town and drivers for those changes. CBH had an excellent record of providing housing

Finally, the Cabinet Member Housing emphasised that this plan was about investing in communities and whilst the delivery of homes would take time it would make a huge difference to the town.

**RESOLVED (UNANIMOUSLY) THAT**

- a) a grant of £300,000 to Cheltenham Borough Homes Limited ('CBH') be approved to enable it to fund the costs set out in section 3.2 of the report to support the development of this initiative.**
- b) subject to tax and treasury management advice being provided to the satisfaction of the Executive Director Finance and Assets (Section 151 officer), the council enter into an appropriate credit / loan agreement with CBH for up to £100 million to finance the capital costs of delivery of the new housing by CBH.**
- c) authority be delegated to the Executive Director Finance and Assets to, in consultation with the Borough Solicitor and Cabinet Member Housing, agree the use of commuted sums paid to the council in lieu of affordable housing to enable the provision of 'additionality' as detailed in section 2.5 of the report.**
- d) loan finance be sourced of up to £100 million to be used for onward lending to CBH to finance the capital costs of it delivering the housing as set out in this report.**
- e) Council requests that a cross party Cabinet Member Working Group is created to consider and recommend viability assessments received from CBH. The CMWG will challenge each site proposal to prioritise and maximise the social benefit with an ambition to not only meet but exceed the councils minimum 40% social/affordable housing target.**

**12. OVERVIEW AND SCRUTINY ANNUAL REPORT**

The Chair of Overview and Scrutiny, Councillor Chris Mason, introduced the item and firstly wished to put on record his thanks to Councillor Tim Harman who had chaired Overview and Scrutiny over the period of the annual report. He also wished to thank democratic services for their support and all officers who had contributed to the work of the committee.

He wished to see more scrutiny and wished to invite councillors to raise issues. Scrutiny should not be afraid to ask challenging questions of officers and Cabinet as this provided them with the opportunity to think carefully about the

process and what they aimed to achieved. He made reference to the two call-ins and welcomed the fact that the meetings were devoid of party politics.

The acting Conservative Group Leader duly noted the report and explained how he had chaired a scrutiny task group where the process had worked well dealing with complex issues through a thoughtful and measured way. He welcomed the holistic cross party approach and wished to put on record to the former and current chairs of the committee.

The Leader also wished to endorse the thanks expressed and welcomed the contribution of scrutiny albeit operating with limited resources to hold the executive to account.

The Chair of the current Scrutiny Task Group on Urban Gulls updated Members on its work which included holding a drop in session, undertaking a survey, meeting the MP and the BID as well as Cabinet Members to discuss the issues. The group was considering whether the action currently taken within the budget could be done in a better way with the aim of making the budget process more transparent.

A Member made a suggestion that a report back to Overview and Scrutiny on Cheltenham Railway Station should be requested as this is what was agreed within the scrutiny task group and was particularly necessary given that progress was not as what was expected. He highlighted the role of "overview" in the process.

**RESOLVED (unanimously) THAT**

**The Annual Report of Overview and Scrutiny 2017-18 be approved.**

**13. NOTICES OF MOTION**

No motions were received.

**14. ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION**

None.

**15. LOCAL GOVERNMENT ACT 1972 -EXEMPT INFORMATION**

**RESOLVED THAT**

**in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 3, Part (1) Schedule (12A) Local Government Act 1972, namely:**

**Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)**

**16. EXEMPT MINUTES**

Councillor Parsons requested that given the purchase of Ellenborough House was public knowledge both the exempt minutes and the agenda documentation be put in the public domain as soon as practicable, particularly given the transparency agenda. He recognised that this would involve some redaction due to some commercially sensitive information.

In response the Cabinet Member Finance highlighted that given the need for some redaction due to information about rental values of occupiers of the property this would be done within 2 weeks.

She added that there was a general point regarding “pink” papers and their disclosure but inevitably they would require some redaction and then be disclosed as soon as practicable.

**RESOLVED THAT**

**The exempt minutes of the meetings held on 23 July and 11 September 2018 be approved.**

Bernard Fisher  
**Chairman**

**Cheltenham Borough Council  
Cabinet 04 December 2018  
Council 10 December 2018  
Council Tax Premium on Empty Properties**

<b>Accountable member</b>	<b>Councillor Rowena Hay</b>
<b>Accountable officer</b>	<b>Jayne Gilpin, Head of Revenues and Benefits</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>Since 2013 Councils have been able to use their discretion to charge an additional 50% council tax, a premium, to long term empty properties which have been unoccupied and unfurnished for more than 2 years. This Council applied the 50% premium from 1<sup>st</sup> April 2018. New legislation has been introduced increasing the premium to 100% from April 2019 then further incremental changes once properties have been empty for 5 and 10 years. This report proposes increasing the premium in line with the new legislation.</p>
<b>Recommendations</b>	<p><b>Cabinet recommends that Council</b></p> <ul style="list-style-type: none"> <li><b>a) Increases the Council Tax Empty Homes Premium to 100% from 1st April 2019 in respect of properties which have been unoccupied and unfurnished for more than 2 years</b></li> <li><b>b) From April 2020 increase the Premium for those properties which have been empty for 5 years or more to 200%</b></li> <li><b>c) From April 2021 increase the Premium for those properties which have been empty for 10 years or more to 300%</b></li> </ul>

<p><b>Financial implications</b></p>	<p>Point 3.8 shows the potential additional council tax that could be raised as a result of the proposals in this report.</p> <p>However, it should be noted that the actual council tax collected may be lower than the figures stated as owners of empty properties may bring them back in to use more quickly.</p> <p>These changes will also impact on the Housing Revenue Account as they will apply to council owned empty properties managed by Cheltenham Borough Homes.</p> <p><b>Contact officer: Paul Jones, Executive Director, Finance and Assets paul.jones@cheltenham.gov.uk, 01242 775154</b></p>
<p><b>Legal implications</b></p>	<p>Section 11b Local Government Finance Act 1992 (as amended) allows the Council to charge a council tax premium. Section 67(2) of that Act provides that the power to decide to introduce a premium can only be exercised by full Council.</p> <p>The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018 provides for the premium to be increased as detailed in 2.1 of the report</p> <p><b>Contact officer: peter.lewis@tewkesbury.gov.uk, 01684 272012</b></p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>None</p> <p><b>Contact officer: , @cheltenham.gov.uk, 01242</b></p>
<p><b>Key risks</b></p>	<p>See Appendix 1</p>
<p><b>Corporate and community plan Implications</b></p>	<p>The proposal to increase the council tax premium will support the Council's priority to reduce the number of empty properties</p>
<p><b>Environmental and climate change implications</b></p>	
<p><b>Property/Asset Implications</b></p>	<p>These changes will apply to any council owned empty properties</p> <p><b>Contact officer: dominic.stead@cheltenham.gov.uk</b></p>



## **1. Background**

- 1.1 The Local Government Finance Acts of 2003 and 2012 introduced some amendments to the Local Government Finance Act 1992, giving discretionary powers for councils to set the level of council tax discount on empty properties.
- 1.2 Appendix 2 shows how the council has used its discretionary powers to set discount levels in respect of empty properties and second homes. It also shows the current and proposed premium levels.
- 1.3 At a full Council meeting on 11 December 2017 this Council decided to charge the 50% empty homes premium in respect of properties which have been empty and unfurnished for more than 2 years from April 2018.
- 1.4 Unoccupied and unfurnished properties are awarded a 25% discount for the first 6 months, followed by the full 100% liability once the 6 months has expired.
- 1.5 The premium becomes due once a property has been unoccupied and unfurnished for 2 years
- 1.6 The empty property classification starts when the property becomes unoccupied and unfurnished. It does not start again as a result of a change in owner or tenant.
- 1.7 If a property becomes occupied or furnished this must be for a period of at least 6 weeks before it can be treated unoccupied and unfurnished again.
- 1.8 New legislation has now come in to force extending discretionary powers to increase the level of premium from April 2019.
- 1.9 The decisions made so far support the council's strategy to bring empty homes back in to use more quickly and generate additional council tax income.

## **2. The Empty Homes Premium from April 2019**

- 2.1 The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018 provides for the premium to be increased from 1st April 2019 as follows
  - From 1st April 2019 - 100% premium, 200% council tax liability, for properties which have been empty for 2 years or more
  - From 1 April 2020 - 200% premium, 300% council tax liability, for those properties which have been empty for 5 years or more
  - From 1 April 2021 300% premium, 400% council tax liability, for those properties which have been empty for 10 or more
- 2.2 Approval is being sought to increase the empty homes premium as detailed in 2.1 above and appendix 2 with effect from 1st April 2019.

## **3. Reasons for recommendations**

- 3.1 In October 2018, 119 properties in Cheltenham have been empty for more than 2 years and are subject to the premium. In October 2017 the number of properties which had been empty for more than 2 years was 80.

- 3.2** Although the number has increased in Cheltenham over the past year the Government has reported that nationally, where Councils have been charging the premium consistently year on year, there has been a significant reduction in the number of homes being charged the premium.
- 3.3** The Government has introduced the changes as part of a number of measures to improve the housing market. It will increase council tax bill and incentivise owners to bring long-standing empty homes back into use.
- 3.4** Empty properties are reviewed regularly by the Revenues and Benefits Section and the Empty Homes Team.
- 3.5** A certain level of empty homes is inevitable and is a feature of a healthy housing market. However properties which have been empty and unfurnished for 2 years or more are often subject to deterioration that can affect the fabric of the property, can cause damage to neighbouring homes and can attract other anti-social problems to the area.
- 3.6** With increased pressure to find housing for people in need the Council wants to encourage homeowners to bring long term empty homes into use to the benefit of all residents. Increasing the empty homes premium to the maximum allowed will send a clear message to owners that it is not acceptable to keep properties empty for long periods, often creating a local nuisance and wasting housing resource.
- 3.7** There are a number of enforcement options available to the Council to make owners bring empty homes back into use, for example, Empty Dwelling Management Orders and Compulsory Purchase Orders. Using these enforcement powers will be considered in individual cases, based on the circumstances.
- 3.8** Based on the 119 properties and the council tax level for 2018/19 increasing the premium to 100% in 2019/20 would increase council tax income by approximately £12,000 for this Council, £73,000 for Gloucestershire County Council and £13,000 for the Police .
- 3.9** The Government has prescribed two classes of dwellings which are exempt from the premium. These are:
- a dwelling which would otherwise be the sole or main residence of a member of the armed services, who is absent from the property as a result of such service;
  - a dwelling, which forms part of a single property (an annexe) that is being treated by a resident of that property as part of the main dwelling

Information held indicates that none of the properties due to be subject to the premium fall in to either of these categories

## **4. Alternative options considered**

- 4.1** The alternative would be to leave the empty Homes Premium at 50%. This does not provide any further incentive for property owners to bring properties back in to use

## **5. Consultation and feedback**

- 5.1** There is no statutory requirement to consult on these proposals. The Empty Homes Team welcome additional measures to support bringing empty properties back in to use.
- 5.2** There is a legal requirement for the Council to publish any decision using these powers in a local newspaper within 21 days of the decision.

5.3 If Council approves the recommendation the Council Tax team will contact all council tax payers likely to be subject to the premium from April 2019 to advise them of the change. This will be done before the end of January.

**6. Performance management –monitoring and review**

6.1 The impact of these changes will be monitored closely.

6.2 The empty property discount classes and the premium will be reviewed annually and further changes will be considered as appropriate.

<b>Report author</b>	<b>Contact officer: Jayne Gilpin, Jayne.gilpin@cheltenham.gov.uk, 01242 264323</b>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Council Tax discounts on empty properties</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. The Local Government Finance Act 1992 <a href="http://www.legislation.gov.uk/ukpga/1992/14/contents">http://www.legislation.gov.uk/ukpga/1992/14/contents</a></li> <li>2. The Local Government Act 2003 <a href="http://www.legislation.gov.uk/ukpga/2003/26/contents">http://www.legislation.gov.uk/ukpga/2003/26/contents</a></li> <li>3. The Local Government Finance Act 2012 <a href="http://www.legislation.gov.uk/ukpga/2012/17/contents">http://www.legislation.gov.uk/ukpga/2012/17/contents</a></li> <li>4. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2003 <a href="http://www.legislation.gov.uk/uksi/2003/3011/contents/made">http://www.legislation.gov.uk/uksi/2003/3011/contents/made</a></li> <li>5. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2012 <a href="http://www.legislation.gov.uk/uksi/2012/2964/contents/made">http://www.legislation.gov.uk/uksi/2012/2964/contents/made</a></li> <li>6. The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 <a href="http://www.legislation.gov.uk/uksi/2012/2965/contents/made">http://www.legislation.gov.uk/uksi/2012/2965/contents/made</a></li> <li>7. Report to council 11/12/2017 – Council Tax Premium on Empty Properties <a href="https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=2706&amp;Ver=4">https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=2706&amp;Ver=4</a></li> <li>8. The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018 <a href="http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted">http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted</a></li> </ol>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If it becomes difficult to collect the higher council tax or owners use tactics to avoid the premium then the estimated additional income may not be fully realised	Jayne Gilpin	04/12/2018	1	3	3	Accept	Monitor and review		Jayne Gilpin	
	If owners continue to leave properties empty the number of long term empty properties will not reduce	Jayne Gilpin	04/12/2018	2	3	6	Accept	Monitor and consider enforcement action in individual cases		Jayne Gilpin	

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6  
 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close

**Council Tax Empty Property Classes Wef April 2019**

**Appendix 2**

<b>Discount Class</b>	<b>Discount/Premium Level up to and including 31 March 2019</b>	<b>Discount/Premium Level with effect from 01 April 2019</b>	<b>Discount/Premium Level with effect from 01 April 2020</b>  These may be subject to further policy or legislative change prior to 01/04/2020	<b>Discount/Premium Level with effect from 01 April 2021</b>  These may be subject to further policy or legislative change prior to 01/04/2021
Class C Empty and unfurnished for up to 6 months *	25% discount	25% for up to 6 months	25% for up to 6 months	25% for up to 6 months
Class C Empty and unfurnished for more than 6 months, but less than 2 years *	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable
Premium Long Term Empty Properties  Empty and unfurnished for more than 2 years*	50% Premium – 150% council tax payable	100% Premium – 200% council tax payable	100% Premium – 200% council tax payable where properties have been empty and unfurnished for more than 2 years, but less than 5 years  200% premium - 300% council tax payable where properties have been empty and unfurnished for more than 5 years	100% Premium – 200% council tax payable where properties have been empty and unfurnished for more than 2 years, but less than 5 years  200% premium - 300% council tax payable where properties have

				<p>been empty and unfurnished for more than 5 years but less than 10 years</p> <p>300% premium - 400% council tax payable where properties have been empty and unfurnished for more than 10 years</p>
<p>Class D</p> <p>Empty and unfurnished and undergoing major works/structural repairs to render them habitable – for up to 12 months *</p>	25% discount for up to 12 months	25% discount for up to 12 months	25% discount for up to 12 months	25% discount for up to 12 months
<p>Second Homes - properties which are furnished but not occupied as anyone's main home</p>	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable	Zero discount – 100% council tax payable

\* In respect of classes C and D If a property is re-occupied or substantially furnished for a period of less than 6 weeks this will be disregarded for the purposes of determining the date it became empty and unfurnished. No further discount will be awarded unless the property is re-occupied for a period more than 6 weeks

**Cheltenham Borough Council**  
**Council– 10 December 2018**  
**Local Council Tax Support Scheme for 2019/20**

<b>Accountable member</b>	<b>Councillor Rowena Hay, Cabinet Member Finance</b>
<b>Accountable officer</b>	<b>Jayne Gilpin, Head of Revenues and Benefits</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>The Council is required to review its council tax support scheme for working age people each year and decide whether to revise it. Consultation on proposals to change the scheme for 2019-20 was undertaken from 25 July until 9 September 2018. Council is being asked to approve the revised scheme in Appendix 2 and summarised in Appendix 3 as the Council's Local Council Tax Support scheme for working age customers for 2019/20</p> <p>The scheme for pension age customers is set by Government and administered by the council</p> <p>Council is also being asked to approve the policy in appendix 5 for awarding discretionary council tax reductions in exceptional circumstances or due to severe financial hardship</p>
<b>Recommendations</b>	<p><b>Cabinet recommends that Council</b></p> <ol style="list-style-type: none"> <li><b>1) Approves the Local Council Tax Support Scheme for working age customers for 2019/20 in Appendix 2, in accordance with section 13A(2) of the Local Government Finance Act 1992</b></li> <li><b>2) Approves the Discretionary Hardship Relief Scheme in Appendix 5, in accordance with Section 13A(1)(c) of the Local Government Finance Act 1992</b></li> <li><b>3) Delegates decisions relating to the application of Section 13A(1)(c) Hardship Relief Scheme awards to the Head of Revenues and Benefits. In the case of a dispute a reconsideration is to be made by the Executive Director Finance and Assets in consultation with the Cabinet Member Finance</b></li> </ol>

<p><b>Financial implications</b></p>	<p>Since 2013/14 The Local Council Tax Support (LCTS) scheme operates in a similar way to discounts, such as for empty properties or single person occupiers. Rather than being accounted for as a benefit cash payment, the council tax base is reduced. Whilst this has no impact for the individual council tax payer, a lower council tax base reduces the tax yield to this Council, Gloucestershire County Council, Gloucestershire Police Authority and town and parish Councils. To offset this impact, the Government paid a cash grant to all local authorities which was 10% less than the funding for the previous council tax benefit scheme. This funding was rolled in to revenue support grant from 2014/15 and has therefore been subject to further cuts. From 2018/19 this council no longer receives revenue support grant and must fund its share of the cost of the scheme. Moving to the proposed scheme will reduce the cost of the scheme,. It will also reduce the administrative burden which is increasing as the Universal Credit rollout continues.</p> <p>The Council is required to fund any discretionary reductions awarded under section 13A(1)(c) of the Local Government Act 199. A budget of £20,000 will be set aside from the savings to fund any discretionary hardship relief payments. This will be in addition to the voluntary contribution by Gloucestershire County Council</p> <p><b>Contact officer: Paul Jones</b></p> <p><b>paul.jones@cheltenham.gov.uk, 01242 264365</b></p>
<p><b>Legal implications</b></p>	<p>The Welfare Reform Act 2012 abolished council tax benefit and instead required each authority to design a scheme specifying the reductions which are to apply to amounts of council tax.</p> <p>The Local Council Tax Support 'LCTS' scheme is required under Section 13A of the Local Government Finance Act 1992 ("the Act") (updated in 2012). The Act states that for each financial year, councils must consider whether to revise their LCTS scheme or replace it with another scheme. The prescribed regulations set out the matters that must be included in such a scheme. Before making any changes, under Section 40 of the Act, the Council must, in the following order:</p> <ol style="list-style-type: none"> <li>1. consult with any major precepting authorities</li> <li>2. publish the draft scheme</li> <li>3. consult other parties likely to have an interest in the scheme</li> </ol> <p>The deadline for making decisions is now the 11 March in the financial year preceding that for which the revision or replacement scheme is to take effect (under Para 5, Schedule 1A of the Act). If the Council does not make/revise a LCTS scheme by 11 March 2019, a default scheme will be imposed on the Council which will be effective from April 2019</p> <p>Contact officer: peter.lewis@teWKesbury.gov.uk, 01684 272012</p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>No direct HR implications arising from the content of the report.</p>



<b>Key risks</b>	<b>See appendix 1</b>
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	None
<b>Property/Asset Implications</b>	There is nothing in this report which impacts on Council properties.

## 1. Background

- 1.1** Since 2013 the Council has been required to establish a Local Council Tax Support Scheme to help working age people on a low income to pay their council tax. This scheme replaced the national Council Tax Benefit Scheme.
- 1.2** The Council is also required to administer, but cannot alter, the national council tax support scheme for pension age customers.
- 1.3** Funding received from Government for the local council tax support scheme in 2013/14 was cut by 10% compared to funding for the previous council tax benefit scheme. The contribution from Government towards the scheme since 2013/14 has been rolled in to Revenue Support Grant and has continued to reduce in line with the other central funding cuts.
- 1.4** The majority of councils have chosen to reduce the amount of council tax support available. Cheltenham is now one of only 36 councils out of 326 that are continuing to provide the level of support available under the former Council Tax Benefit system.
- 1.5** A number of councils have now introduced a scheme based on income bands and more are proposing to move to this type of scheme in 2019/20. Taunton Deane and South Gloucestershire already have a scheme in place. Gloucester City and Cotswold District Councils are currently consulting with residents on proposals to introduce an income banded scheme.
- 1.6** In 2018/19, 290 councils have reduced the level of support available under their local council tax support scheme. 264 of these do not provide support up to 100% and require everyone to pay something. Of the 264, 159 councils require everyone to pay at least 20% of the council tax liability. An analysis of the most common changes made and the number of councils involved is below

<b>Changes made by Councils in 2018/19</b>	<b>Number of Councils out of 326</b>
No changes made - support in line with council tax benefit	36
Minimum entitlement ie Nothing awarded until entitlement exceeds £5 per week	70
Restricted Band eg no award if council tax band is higher than D	110
Lowered the savings limit above which no support will be paid ie from £16,000 to £6,000	104
Removed second adult rebate	217
Maximum award is less than 100% - everyone required to pay something	264

## 2. Reasons for recommendation

- 2.1** Council tax support is currently provided to just under 6,000 households in Cheltenham at an annual cost of almost £6m. This includes working and pension age claimants. Approximately 4000 of these households are of working age and the cost for these is £3.7m. The cost of the council tax support scheme is met by this council and the precepting authorities in proportion to the share of the council tax.

- 2.2 The local council tax support scheme works in a similar way to other council tax discounts. The tax base is reduced to take account of the reduction which reduces the tax yield to this Council, Gloucestershire County Council, Gloucestershire Police Authority and the parish councils
- 2.3 Each year the Council has to decide whether to make changes to its council tax support scheme for working age customers.
- 2.4 Funding received from Central Government for the council tax support scheme, as it is rolled in to revenue support grant, is not identifiable within the grant. As Government funding continues to reduce there is less funding available for council tax support.
- 2.5 Cheltenham has managed to maintain the same level of support for 6 years whilst the majority of Councils have reduced support.
- 2.6 Government has been clear that councils should look to maximise their own resources to support the continued delivery of key and critical services. The Local Government Association has advised councils that they should look to reduce expenditure on their local council tax support schemes before lobbying for additional funding.
- 2.7 Cheltenham became a full Universal Credit area in January 2018. Universal Credit is reassessed on a monthly basis and any changes in income under Universal Credit will mean that a different level of income also needs to be taken into account for assessing council tax support. A change in the level of council tax support, however small, means a revised council tax bill needs to be issued changing the payable amount. Issuing revised council tax bills on a monthly basis is costly but it is also very difficult for those customers affected to manage their finances when their monthly instalment amounts are not consistent.
- 2.8 In the 6 month period between April and September 2018, 6,922 Universal Credit notifications for council tax support purposes were received. A 6 week analysis was undertaken during May and June. Over the 6 week period 974 notifications were received. 424 resulted in the amount of support changing and revised bills being issued. Records were amended for the other 550 but did not result in a change to the amount. The number of notifications received is increasing each month as the number of customers on Universal Credit increases. The percentage discount scheme based on income bands is being proposed will mean that small fluctuations in Universal Credit will not cause the amount of council tax support to change.
- 2.9 On 23 July 2018 Full Council unanimously endorsed a consultation exercise on proposals for a revised council tax support scheme for 2019/20.

### **3. Consultation Results**

- 3.1 The consultation provided information about how the current scheme works and the funding arrangements, why changes were being considered and examples to explain the proposed changes. A number of questions were asked about the proposal to introduce a scheme based on income bands, whether we should ask everyone to pay something or protect the most vulnerable, whether we should restrict the maximum amount of support based on the council tax band and how we should treat certain types of income was undertaken from 25 July until 9 September 2018.
- 3.2 The consultation was made available on the Council's website with paper copies issued on request. During the consultation period it was promoted to benefit customers by the benefits team and flyers were issued daily with council tax bills and council tax support letters. It was also promoted by a link to the relevant page on the website on over 4,000 email communications to council tax payers and benefit customers.
- 3.3 130 people completed consultation responses were received and 3 letters or emails. Although this is a low number it is a good response when compared to some other Councils. Oxford City

Council consulted on similar changes and reported only 18 responses whilst Exeter reported 76.

- 3.4 Of the 130 respondents, 98% were Cheltenham council tax payers with 15% being in receipt of council tax support. More than 70% were working age and 63% were in employment. There was a fairly even split between male and female, 10% were disabled. Less than 20% of the respondents were other than white British ethnicity.
- 3.5 Consultation was also undertaken with Gloucestershire County Council, Gloucestershire Police and the parish councils.
- 3.6 The responses to the consultation have been analysed and together with the income and household composition of the current council tax support caseload, have been used to design the proposed scheme.
- 3.7 An analysis of the consultation responses is in appendix 4. A summary of the responses is below with an explanation of how they have been factored in to the proposed scheme

### Change 1 - Introduce a% discount scheme based on income bands

Almost 70% of respondents agreed that this would be a fair way to help people.

A discount scheme based on 5 income bands is being proposed

### Change 2 – Reducing the savings and capital people can have and qualify for council tax support

More than 54% agreed that the savings and capital limit should be reduced from £16,000. £6,000 or £3,000 was proposed but respondents were asked to state an alternative limit. Various limits were suggested and 33% of respondents preferred £6,000.

£6,000 is the limit in the proposed scheme

### Change 3 – Continuing to provide 100% support

Over 59% of respondents agreed that we should continue to provide 100% council tax support. Of those that answered no, the majority thought that support should be between 75% and 90%

The proposed scheme is based on providing up to 100% support

### Change 4 – Protecting certain vulnerable groups

Over 76% of respondents agreed that certain vulnerable groups should be protected by continuing to provide 100% council tax support for them.

The proposed scheme is based on providing up to 100% support for certain vulnerable groups

### Change 5 – Ignoring child benefit as income

Over 57% agreed that child benefit should be ignored as income for the purposes of calculating a person's income.

The proposed scheme ignores child benefit

### Change 6 – Ignoring child maintenance as income

48% of respondents agreed that child maintenance should be ignored as income for the purposes of calculating a person's income

The proposed scheme ignores child benefit

### Change 7 – Contribution by non-dependants adults living in the property

59% of respondents agreed that council tax support should be reduced for a contribution to be made by non-dependants.

The proposed scheme requires a contribution to be made by non-dependants, based on income

### Change 8 – Restricting support to lower council tax bands

Over 52% of respondents agreed that support should be restricted to Band E.

The proposed scheme restricts council tax support to Band E meaning that those in Bands F,G and H will receive support based on Band E

### Change 9 – Shortening the period a claim can be backdated from 6 to one month

Only 34% agreed that the backdating period should be reduced to one month.

The proposed scheme retains the 6 month backdating period

### Change 10 – Discontinuing second adult rebate

52% of respondents agreed that second adult rebate should be discontinued

The proposed scheme does not include second adult rebate

### Change 11 – Reducing the temporary absence period when support will be paid

69% of respondents agreed that support should only be paid for up to 4 weeks whilst claimants are living outside the UK.

The proposed scheme includes a 4 week temporary absence period

The final question asked residents how the Council should continue to fund the council tax support scheme.

40% of respondents chose to reduce the level of council tax support and 25% chose to increase the level of council tax, 11% chose to reduce the funding for other council services.

The proposed scheme reduces the level of council tax support

- 3.8** The responses to the consultation have been analysed and together with the income and household composition of the current council tax support caseload, have been used to design the proposed scheme.

## **4. Proposed Scheme**

- 4.1** The draft scheme being proposed, which is based on income bands is summarised in appendix 2
- 4.2** The income band scheme is based on a completely different approach to the current scheme. The income bands set the percentage discount to be awarded based on the level of household income. The higher the level of income, the lower the percentage discount will be. Although the concept of the scheme is different it will continue to disregard certain types of income when calculating household income to ensure the most vulnerable continue to be protected. These include child benefit, child maintenance and certain disability benefits.
- 4.3** The consultation results have been analysed and the scheme being proposed includes the

changes that the majority of respondents were in favour of.

**4.4** The overriding aim of the scheme is to:

- Protect the most vulnerable individuals and families by continuing to provide 100% support to those on the lowest income
- Provide some financial support to low income individuals and families, based on their level of income
- Minimise the number of changes to the amount of support awarded and therefore the amount of council tax payable due to monthly Universal Credit reassessments
- Reduce the overall cost of the scheme to the taxpayer

**4.5** Although the majority of Councils have limited the maximum support the scheme proposed will protect the most vulnerable. The scheme is based on 5 income bands with the highest band providing support at 100% of the council tax liability, then reducing to 80%, 60%, 40% and 20% as household income increases.

**4.6** Adopting this scheme will reduce the support provided to some claimants, but will protect the most vulnerable and will reduce the overall cost of the scheme.

**4.7** Currently, council tax support of just under £3.7m is being paid to 3,976 households.

**4.8** The income bands and percentage discount being proposed with the number of council tax support recipients in each band are as follows

Income Band	Single person	Couple	Lone parent with children	Couple with children	Maximum percentage entitlement	Customers in band
	Income £					
Band 1	000.00 to 75.00	000.00 to 115.00	000.00 to 150.00	000.00 to 200.00	100%	2782
Band 2	075.01 to 100.00	115.01 to 150.00	150.01 to 175.00	200.01 to 250.00	80%	148
Band 3	100.01 to 125.00	150.01 to 200.00	175.01 to 225.00	250.01 to 300.00	60%	337
Band 4	125.01 to 150.00	200.01 to 250.00	225.01 to 275.00	300.01 to 350.00	40%	323
Band 5	150.01 to 175.00	250.01 to 300.00	275.01 to 325.00	350.01 to 400.00	20%	200

**4.9** Based on the caseload in September 2018 the table below shows the number of council tax support claimants who will see their council tax support reduce and by how much.. 2,747 claimants will continue to receive the same level of support that they receive now. 319 will see a small increase to how their level of income slots in to the income bands. 724 will see a reduction in support and 186 will no longer qualify for any support

Number of customers affected	Annual Reduction in Council Tax Support
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14	Over £1000
2	£900 to £999.99
16	£800 to £899.99
42	£700 to £799.99
43	£600 to £699.99
68	£500 to £599.99
91	£400 to £499.99
142	£300 to £399.99
115	£200 to £299.99
94	£100 to £199.99
97	£0.00 to £99.99
Total 724	

Number of customers affected	Annual gain in Council Tax Support
133	£0.00 to £99.99
186	Over £100
Total 319	

Number of customers affected	No change in entitlement
Total 2747	

Number of customers affected	No longer entitled to Council Tax Support
Total 186	

- 4.10** Again, based on the September 2018 caseload and 2018/19 council tax levels it is estimated that these changes would reduce the cost of the scheme by approximately £420,000, which is £52,000 to this council, £311,000 to Gloucestershire County Council and £57,000 to Gloucestershire Police. These savings will vary due to any fluctuation in caseload and increase in council tax levels.
- 4.11** Once the scheme is approved the Revenues and Benefits team will notify all those claimants who will be affected by the change to make them aware that they will have more council tax to pay in 2019/20. When council tax bills are issued in March next year further letters will be sent with bills to explain payment options.
- 4.12** An Equalities Impact Assessment (EIA) for the proposed scheme is in appendix 6. In a consultation response it was highlighted that an EIA was not carried out at consultation stage. The EIA was carried out at the stage the proposed scheme was designed following the results of the consultation being analysed.

## **5. Discretionary Hardship Scheme**

- 5.1** Section 13A(1)(c) of The Local Government Finance Act 1992 gives the Council discretionary powers to reduce the amount of council tax payable for individuals or classes of council tax payer. This power has so far been used mainly where there are exceptional circumstances such as flooding or a gas explosion
- 5.2** To mitigate the financial impact of the scheme on those most adversely affected a Discretionary Hardship Scheme Policy is being proposed in appendix 5 is. This scheme will enable officers to

apply a discretionary reduction in cases where there is severe financial hardship and/or there are exceptional circumstances..

- 5.3 The Council, as the billing authority, is required to fund the total amount of reductions awarded using this power rather than just it's share proportionate to the share of the council tax.
- 5.4 Agreements can be made with precepting authorities to fund their share and Gloucestershire county Council has agreed to fund its share of reductions awarded as a result of changes to the council tax support scheme.

**6. Alternative options considered**

- 6.1 Continuing with the current scheme has been considered but due to the way Universal Credit operates the Council needs to consider making some changes to the current council tax support scheme to simplify administration and reduce the volume and frequency of changes to council tax bills. It is not possible to retain the current scheme and reduce the cost.

**7. Performance management – monitoring and review**

- 7.1 If the proposed scheme is introduced from April 2019 it will be monitored closely by officers and will be reviewed before developing the scheme for 2020/21.

<b>Report author</b>	<b>Contact officer: Jayne Gilpin, Head of Revenues and Benefits Jayne.gilpin@cheltenham.gov.uk, 01242 264323</b>
<b>Appendices</b>	<ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. Council Tax Support scheme 2019/20</li><li>3. Summary of Council Tax Support scheme 2019/20</li><li>4. Consultation analysis and responses</li><li>5. Section 13 Discretionary Hardship Scheme</li><li>6. Equalities impact assessment</li></ol>



<b>Background information</b>	<ol style="list-style-type: none"><li>1. The Local Government Finance Act 1992, amended by the Local Government Finance Act 2012 <a href="http://www.legislation.gov.uk/ukpga/2012/17/contents">http://www.legislation.gov.uk/ukpga/2012/17/contents</a></li> <li>2. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 <a href="http://www.legislation.gov.uk/uksi/2012/2885/contents/made">http://www.legislation.gov.uk/uksi/2012/2885/contents/made</a></li> <li>3. The Council Tax Reduction Schemes (Amendment) (England) Regulations 2017 <a href="http://www.legislation.gov.uk/uksi/2017/1305/pdfs/uksi_20171305_en.pdf">http://www.legislation.gov.uk/uksi/2017/1305/pdfs/uksi_20171305_en.pdf</a></li></ol>
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If a working age council tax support scheme is not approved it will not meet the legal requirements to have a scheme in place by 11 March 2019.	Jayne Gilpin	06/11/2018	2	1	2	Accept	Cabinet then Council approves the report recommendations	10/12/18	Jayne Gilpin	
2	If there is a significant increase in caseload the level of savings might not be achieved	Jayne Gilpin	06/11/2018	2	3	6	Accept and Monitor	Monitor the caseload on a monthly basis		Jayne Gilpin	
3	If claimants affected by the proposed scheme are unable to pay their increased council tax liability then council tax arrears will increase	Jayne Gilpin	06/11/2018	2	3	6	Accept and Monitor	Monitor council tax records for those affected. Communication with council tax payers at all stages. Discretionary Hardship Scheme may provide support for in cases of severe financial hardship		Jayne Gilpin	
4											

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close

**Cheltenham Borough Council**

**Local council tax support scheme for working age customers**  
S13A and Schedule 1A of the Local Government Finance Act 1992

**2019/2020**

Details of support to be given for working age customers during the financial year 2019/20

**Section 1 (Council tax support scheme)**

1. Introduction to the council tax support banded income scheme

**Sections 2-8 (Definitions and interpretation)**

2. Interpretation – an explanation of the terms used within this scheme
3. Definition of non-dependant
4. Requirement to provide a National Insurance number
5. Persons who have attained the qualifying age for state pension credit or who are of working age and who have a partner who has attained the qualifying age for state pension credit
6. Remunerative work
7. Persons subject to immigration control – excluded from claiming under this scheme
8. Temporary absence (period of absence)

**Section 9-11 (The family for council tax support purposes)**

9. Membership of a family
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## Council tax support scheme

### Section 1

#### Details of support to be given to working age customers for the financial year 2019/20

##### 1.0 Introduction to the council tax support scheme

1.1 The following scheme has been adopted by the Council on 10 December 2018 in respect of the period 1<sup>st</sup> April 2019 – 31<sup>st</sup> March 2020

1.2 This document details how the scheme will operate for working age customers and, in accordance with Section 13A of the Local Government Finance Act 1992, specifies who will be entitled to a reduction under the scheme, Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and the Local Government Finance Act 1992 (as amended) and is effective from 1 April 2019 for a period of one financial year.

1.3 The scheme in respect of pension age applicants is defined by Central Government within the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and the Local Government Finance Act 1992 (as amended).

The Council has **no** discretion in relation to the calculation of council tax support in respect of the pension age scheme other than the full disregard of war pension and war disablement pension and it is designed to provide broadly the same level of support provided within the previous (Council Tax Benefit) scheme.

1.4 Full details of the working age scheme of the authority are contained within this document from section 2 onwards. The authority is required to specify a scheme for working age and therefore this scheme only applies to a person who;

- a. has not attained the qualifying age for state pension credit; or
- b. has attained the qualifying age for state pension credit and he/she or their partner, is a person on income support, on an income-based job seekers allowance, or on an income-related employment and support allowance.

1.5 The scheme shall not apply to any applicant who is subject to immigration control under Section 115 of the Immigration and Asylum Act 1999 and non-economically active EEA nationals.

1.6 To obtain support the individual (or partner) must:

- a. have not attained the qualifying age for state pension credit;
- b. be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- c. is not deemed to be absent from the dwelling;
- d. not fall within a class of person prescribed for the purposes of paragraph 2(9) of Schedule 1A to the Local Government Finance Act 1992 and excluded from the authority's scheme;
- e. be somebody in respect of whom a maximum council tax reduction amount can be calculated;

- f. not have capital savings above £6,000;
- g. be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's income falls into one of the income bands or the applicant or partner is in receipt of Income Support, Jobseekers Allowance (income based) or Employment and Support Allowance (income related); and
- h. have made a valid application for support.

1.7 Applicants entitled to a maximum reduction under this scheme fall into the income band 1 percentage reduction less any non dependant deductions. Applicants who fall into income band 1 are:

- a. applicants whose calculated weekly income, in accordance with this scheme, is within the income range for income band 1; or
- b. an applicant is in receipt of either;
  - (i) Income Support
  - (ii) Job Seeker's Allowance (Income Based)
  - (iii) Employment and Support Allowance (Income Related)
  - (iv) Maximum Universal Credit

1.8 Any award of council tax support will be applied to the annual liability after any discounts and non dependant deductions have been applied. The annual liability will be restricted to a council tax band E if the applicant lives in a property that has either a council tax band F, G or H. The reduction applied will be equal to a percentage of the liability. The percentage of support will be based on the income of the applicant and partner(s) according to the specified income bands.

1.9 The income bands are numbered 1 to 5 and apply to the income range and related percentage reduction. The income range is the combined income of the applicant and their partner(s). Where the combined weekly income falls on or within a range, then the related council tax support percentage is applied against the net annual liability calculated in 1.8 above. The income bands are:

Income Band	Single person	Couple	Lone parent with children	Couple with children	Maximum percentage entitlement
	Income £				
Band 1	000.00 to 075	000.00 to 115	000.00 to 150	000.00 to 200	100%
Band 2	075.01 to 100	115.01 to 150	150.01 to 175	200.01 to 250	80%
Band 3	100.01 to 125	150.01 to 200	175.01 to 225	250.01 to 300	60%
Band 4	125.01 to 150	200.01 to 250	225.01 to 275	300.01 to 350	40%
Band 5	150.01 to 175	250.01 to 300	275.01 to 325	350.01 to 400	20%

## Sections 2-8

### Definitions and interpretation

2.0 **Interpretation – an explanation of the terms used within this scheme**

2.1 In this scheme-

- 'the Act'** means the Social Security Contributions and Benefits Act 1992;
- 'the Administration Act'** means the Social Security Administration Act 1992;
- 'the 1973 Act'** means of Employment and Training Act 1992;
- 'the 1992 Act'** means the Local Government Finance Act 1992;

**'the 2000 Act'** means the Electronic Communications Act 2000;

**'Abbeyfield Home'** means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate 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;

**'applicant'** means a person who the authority designates as able to claim council tax support – for the purposes of this scheme all references are in the masculine gender but apply equally to male and female;

**'application'** means an application for a reduction under this scheme;

**'appropriate DWP office'** means an office of the Department for Work and Pensions dealing with state pension credit or office which is normally open to the public for the receipt of claims for income support, a job seeker's allowance or an employment and support allowance;

**'assessment period'** means such period as is prescribed in sections 19 to 21 over which income falls to be calculated;

**'attendance allowance'** means-

- (a) an attendance allowance under Part 3 of the Act;
- (b) an increase of disablement pension under section 104 or 105 of the Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to the Act;
- (d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act;
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983 or any analogous payment; or
  - (f) 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'**, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);

**'the benefit Acts'** means the Act (SSBA) and the Jobseekers Act 1995 and the Welfare Reform Act 2007;

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

**'care home'** has the meaning given by section 3 of the Care Standards Act 2000 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 28 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 SCCBA;

**‘the Children Order’** means the Children (Northern Ireland) Order 1995;

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

**‘claim’** means a claim for council tax support;

**‘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;

**‘concessional 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 are charged;

**‘the Consequential Provisions Regulations’** the Housing Benefit and Council Tax Reduction (Consequential Provisions) Regulations 2006;

**‘contributory employment and support allowance’** means an allowance under Part 1 of the Welfare Reform Act 2007(d) as amended by the provisions of schedule 3, and part 1 of the schedule 14, to the welfare reform Act 2012 9e) 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 the provisions”

**‘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;

**‘council tax support scheme’** has the same meaning as **‘council tax reduction or reduction’**

**‘council tax support’** means council tax reduction as defined by S13a Local Government Finance Act 1992 (as amended);

**‘couple’** means;

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

Two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes;

**‘date of claim’** means the date on which the application or claim is made, or treated as made, for the purposes of this scheme

**‘designated authority’** means any of the following;

the local authority; or a person providing services to, or authorised to exercise any function of, any such authority;

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**‘designated office’** means the office designated by the authority for the receipt of claims for council tax support;

- (a) by notice upon or with a form approved by it for the purposes of claiming council tax support; 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; or
- (c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

**‘disability living allowance’** means a disability living allowance under section 71 of the Act;

**‘dwelling’** has the same meaning in section 3 or 72 of the 1992 Act;

**‘earnings’** has the meaning prescribed in section 25 or, as the case may be, 27;

**‘the Eileen Trust’** means the charitable trust of that name established on 29 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 Act 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 maternity pay;

**‘Employment and Support Allowance Regulations’** means the Employment and Support Allowance Regulations 2008;

**‘Employment and Support Allowance (Existing Awards) Regulations’** means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) Existing Awards) Regulations 2010;

**‘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 applicants 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 applicants for a job seeker’s allowance to obtain sustainable employment;

**‘employment zone contractor’** means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

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

**‘extended support’** means a payment of council tax support payable pursuant to section 60;

**‘extended support period’** means the period for which an extended support is payable in accordance with section 60A or 61A of this scheme;

**‘extended support (qualifying contributory benefits)’** means a payment of council tax support payable pursuant to section 61;

**‘family’** has the meaning assigned to it by section 137(1) of the Act and Section 9 of this scheme;

**‘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 24 April 1992 or, in Scotland, on 10 April 1992;

**‘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;

**‘he, him, his’** also refers to the feminine within this scheme

**‘housing benefit’** means housing benefit under Part 7 of the Act; ‘the Housing Benefit Regulations’ means the Housing Benefit Regulations 2006;

**‘Immigration and Asylum Act’** means the Immigration and Asylum Act 1999;

**‘income band’** is the number allocated to the income range and related percentage;

**‘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;

**‘Income Support Regulations’** means the Income Support (General) Regulations 1987(a);

**‘independent hospital’-**

- (a) in England, means a hospital as defined by section 275 of the National Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales; has the meaning assigned to it 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 10 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;

**‘Jobseekers Act’** means the Jobseekers Act 1995; ‘Jobseeker’s Allowance Regulations’ means Jobseeker’s Allowance Regulations 1996;

**‘limited capability for work’** has the meaning given in section 1(4) of the Welfare Reform Act;

**‘limited capability for work-related activity’** has the meaning given in 2(5) of the Welfare Reform Act 2007;

**‘the London Bombing Relief Charitable Fund’** means the company limited by guarantee (number 5505072), and registered charity of that name established on 11 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 7 July 2005;

**‘lone parent’** means a person who has no partner and who is responsible for 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 29 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) (No2) Trust’** means the trust of that name, established on 3 May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons

suffering from haemophilia and other beneficiaries;

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

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

**‘the Mandatory Work Activity Scheme’** means a scheme within 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 provide work or work related activity for up to 30 hours per week over a period of four consecutive weeks with a view to assisting applicants to improve their prospect of obtaining employment;

**‘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;

**‘member of a couple’** means a member of a married or unmarried couple;

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

**‘mobility supplement’** means a supplement to which paragraph 9 of Schedule 4 refers;

**‘mover’** means a applicant who changes the dwelling in which the applicant is resident and in respect of which the applicant liable to pay council tax from a dwelling in the area of the appropriate authority to a dwelling in the area of the second authority;

**‘net earnings’** means such earnings as are calculated in accordance with section 26;

**‘net profit’** means such profit as is calculated in accordance with section 28;

**‘the New Deal options’** means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996 and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

**‘new dwelling’** means, for the purposes of the definition of ‘second authority’ and sections 60C, and 61C the dwelling to which a applicant has moved, or is about to move, in which the applicant is or will be resident;

**‘non-dependant’** has the meaning prescribed in section 3;

**‘non-dependant deduction’** means a deduction that is to be made under section 58;

**‘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; and 'local authority' means a local authority in England within the meaning of the Local Government Act 1972;

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

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

**'ordinary clothing or footwear'** means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities;

**'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 leave by virtue of section 80A or 80B of the Employment Rights Act 1996;

**'payment'** includes part of a payment;

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

**'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;

**'pensioner'** a person who has attained the age at which pension credit can be claimed;

**'person affected'** shall be construed as a person to whom the authority decides is affected by any decision made by the council;

**'person on income support'** means a person in receipt of income support;

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

**'person treated as not being in Great Britain'** has the meaning given by section 7;

**'personal pension scheme'** means-

- a. a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993;
- b. an annuity contractor trust scheme approved under section 20 or 21 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 of 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 a marriage to which section 133(1) of the Act refers namely;

- (a) a person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy; and
- (b) either a party to the marriage has for the time being any spouse additional to the party.

**‘public authority’** includes any person certain of whose functions are functions of a public nature;

**‘qualifying age for state pension credit’** means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)-

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

**‘qualifying contributory benefit’** means’

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

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

**‘qualifying income-related benefit’** means

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

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

**‘reduction week’** means a period of seven consecutive days beginning with a Monday and ending with a Sunday;

**‘relative’** means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

**‘relevant authority’** means an authority administering council tax reduction;

**‘relevant week’** In relation to any particular day, means the week within which the day in question falls;

**‘remunerative work’** has the meaning prescribed in section 6;

**‘rent’** means ‘eligible rent’ to which regulation 12 of the Housing Benefit Regulations refers less any deductions in respect of non-dependants which fall to be made under regulation 74 (non-dependant deductions) of those Regulations;

**‘resident’** has the meaning it has in Part 1 or 2 of the 1992 Act;

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

**‘self-employed earner’** is to be construed in accordance with section 2(1)(b) of the Act;

**‘self-employment route’** means assistance in pursuing self-employed earner’s employment whilst participating in-

- (a) an employment zone programme;
- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (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'** means an applicant participating as a service user are to –

- (a) a person who is being consulted by or on behalf of-
- (1) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
  - (2) 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
- (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 25 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.

**'special account'** means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker's Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;

**'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 Act'** means the State Pension Credit Act 2002;

**'student'** has the meaning prescribed in section 43;

**'subsistence allowance'** means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

**'support or reduction week'** means a period of 7 consecutive days commencing upon a Monday and ending on a Sunday;

**'the Tax Credits Act'** means the Tax Credits Act 2002;

**'tax year'** means a period beginning with 6 April in one year and ending with 5 April in the next;

**'training allowance'** means an allowance (whether by way of periodical grants or otherwise) payable-

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

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 1973 Act or is training as a teacher;

**'the Trusts'** means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No 2) Trust;

**'Universal Credit'** means any payment of Universal Credit payable under 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;

**'week'** means a period of seven days beginning with a Monday;

**'Working Tax Credit Regulations'** means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; and

**'young person'** has the meaning prescribed in section 9(1) and in section 142 of the SSCBA.

2.2 In this scheme, references to an applicant occupying a dwelling or premises as his home shall be construed in accordance with regulation 7 of the Housing Benefit Regulations 2006.

2.3 In this scheme, where an amount is to be rounded to the nearest penny, a fraction of a penny shall be disregarded if it is less than half a penny and shall otherwise be treated as a whole penny.

2.4 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 in accordance with regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of the Jobseekers Act (circumstances in which a jobseeker's allowance is not payable); or
- (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 regulation 27A of the Jobseeker's Allowance Regulations or section 19 or 20A or regulations made under section 17A of that Act;
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker's allowance is payable in respect of that couple as a

consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act;

- (d) in respect of which an income-based jobseeker's allowance or a joint-claim 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).

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

2.6 For the purposes of this scheme, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

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

### **3.0 Definition of non-dependant**

3.1 In this scheme, 'non dependant' means any person, except someone to whom section 3.2 applies, who normally resides with an applicant or with whom an applicant normally resides.

3.2 This paragraph applies to;

- a. any member of the applicant's family;
- b. if the applicant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- c. a child or young person who is living with the applicant but who is not a member of his household by virtue of section 11(membership of the same household);
- d. subject to section 3.3, any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under sections 6, 7 or 75 of the 1992 Act (persons liable to pay council tax);
- e. subject to section 3.3, 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.

3.3 Excepting persons to whom section 3.2 a) to c) and f) refer, a person to whom any of the following sub-paragraphs applies shall be a non-dependant-

- a. a person who resides with the person to whom he is liable to make payments in respect of the dwelling and either;
  - i. that person is a close relative of his or her 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 the 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 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 authority is satisfied that the change giving rise to the new liability was not made to take advantage of the support scheme.

**4.0 Requirement to provide a National Insurance number**

4.1 No person shall be entitled to support unless the criteria below in 4.2 is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming support.

4.2 This subsection is satisfied in relation to a person if-

- a. the claim for support 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 national insurance number that has been allocated to the person to be ascertained; or
- b. the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated and the application for reduction is accompanied by evidence of the application and information to enable it to be allocated.

4.3 Section 4.2 shall not apply-

- a. in the case of a child or young person in respect of whom council tax support is claimed;
- b. to a person who;
  - i. is a person in respect of whom a claim for council tax support is made;
  - ii. is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act; and
- a. has not previously been allocated a national insurance number.

**5.0 Persons who have attained the qualifying age for state pension credit or who are of working age and who have a partner who has attained the qualifying age for state pension credit**

5.1 This scheme for working age applicants does not apply to a person in relation to any person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit.

5.2 This scheme applies to a person 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;
  - (a) a person on income support, on income-based jobseeker's allowance or an income-related employment and support allowance; or
  - (b) a person with an award of Universal Credit.

**6.0 Remunerative work**

6.1 Subject to the following provisions of this section, a person shall 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.

6.2 Subject to section 6.3, in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over;

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

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

6.3 Where, for the purposes of section 6.2 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 shall be disregarded in establishing the average hours for which he is engaged in work.

6.4 Where no recognisable cycle has been established in respect of a person's work, regard shall 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.

6.5 A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in section 6.1 if the absence is either without good cause or by reason of a recognised customary or other holiday.

6.6 A person on income support, an income-based job seeker's allowance or an income-related employment and support allowance for more than 3 days in any reduction week shall be treated as not being in remunerative work in that week.

6.7 A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.

6.8 A person shall 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.

**7.0 Persons subject to Immigration Control – excluded from claiming under this scheme persons treated as not being in Great Britain**

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

7.2 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.

7.3 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.

7.4 For the purposes of sub-paragraph (3), a right to reside does not include a right which exists by virtue of, or in accordance with;

(a) regulation 13 of the EEA Regulations or Article 6 of Council Directive No 2004/38/EC;

(aa) regulation 14 of the EEA regulations, but only in a case where the right exists under that regulation because the person is –

- 1. a jobseeker for the purpose of the definition of "qualified person" in reg 6(1) of those regulations or
- 2. a family member (within the meaning of reg 7 of those regulations) of such a jobseeker;

(ab) Article 45 of the Treaty on the functioning of the European Union (a) (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland);

(b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine employment of their rights as a European Union citizen).

- 7.5 A person falls within this sub-paragraph if the person is;
- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
  - (b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
  - (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28 July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31 January 1967;
  - (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971(b) where that leave is-
    - (1) discretionary leave to enter or remain in the United Kingdom,
    - (2) leave to remain under the Destitution Domestic Violence concession© which came into effect on 1<sup>st</sup> April 2012, or
    - (3) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary protection) Regulations 2005(d);
  - (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;
  - (ha) in receipt of an income based jobseekers allowance and has a right to reside other than a right to reside falling within paragraph (7.4);or
  - (i) a person who is treated as a worker for the purpose of the definition of 2qualified person<sup>2</sup> in regulation 6(1) of the EEA Regulations pursuant to regulation 5 of the Accession of Croatia (immigration and Worker Authorisation) Regulations 2013(e) (right of residence of a croatian who is an “accession state national subject to worker authorisation”)

7.6 A person falls within this sub-paragraph if the person is a Crown servant or member of Her Majesty's forces posted overseas.

7.7 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 consecutive postings, habitually resident in the United Kingdom.

7.8 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:

**Persons subject to immigration control**

7.9 Subject to paragraph (1A)” persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in an authority's 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 purposes of paragraph (1)”

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

## **8.0 Temporary absence (period of absence)**

8.1 Where a person is absent from the dwelling throughout any day then no support shall be payable

8.2 A person shall not, in relation to any day, which falls within a period of temporary absence from the dwelling, be a prescribed person under paragraph 8.1.

8.3 In paragraph 8.2, a ‘period of temporary absence’ means-

- a. a period of absence not exceeding 4 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 4 weeks.

## **Sections 9 – 11**

### **The family for council tax support purposes**

#### **9.0 Membership of a family**

9.1 Within the council tax support scheme, ‘family’ means;

- a. a married or unmarried couple;
- b. married or unmarried 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;
- c. two people of the same sex who are civil partners of each other and are members of the same household (with or without children);
- d. two people of the same sex who are not civil partners of each other but are living together as if they were civil partners (with or without children),
- e. and for the purposes of sub-paragraph (d) two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;
- f. except in prescribed circumstances, a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

For the purposes of the scheme a child is further defined as a ‘child or young person’

A ‘child’ means a person under the age of 16 and a ‘Young Person’ is someone aged 16 or over but under 20 and who satisfies other conditions. Those conditions are:

- they are aged 16, have left ‘relevant education’ or training, and 31 August following the sixteenth birthday has not yet been passed;
- they are aged 16 or 17, have left education or training, are registered for work, education or training, are not in remunerative work and are still within their ‘extension period’;
- they are on a course of full-time non-advanced education, or are doing ‘approved training’ and they began that education or training before reaching the age of 19;



- they have finished a course of full-time non-advanced education, but are enrolled on another such course (other than one provided as a result of their employment);
- they have left 'relevant education' or 'approved training' but have not yet passed their 'terminal date'.

9.2 Section 9.1 the definition of child or young person shall not apply to a person who is;

- a. on income support;
- b. an income-based jobseeker's allowance or an income-related employment and support allowance; or has an award of Universal Credit; or
- c. a person to whom section 6 of the Children (Leaving Care) Act 2000 (exclusion from benefits) applies.

9.3 The definition also includes a child or young person in respect of whom there is an entitlement to child benefit but only for the period that Child Benefit is payable

**10.0 Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person.**

10.1 Subject to the following paragraphs a person shall be treated as responsible for a child or young person who is normally living with him and this includes a child or young person to whom section 9.3 applies

10.2 Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of section 9.1 as normally living with;

- a. the person who is receiving child benefit in respect of him; 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.

10.3 For the purposes of this scheme a child or young person shall be the responsibility of only one person in any reduction week and any person other than the one treated as responsible for the child or young person under this section shall be treated as not so responsible.

**11.0 Circumstances in which a child or young person is to be treated as being or not being a member of the household**

11.1 Subject to sections 11.2 and 11.3, the applicant and any partner and, where the applicant or his partner is treated as responsible by virtue of section 10 (circumstances in which a person is to be treated as responsible or not responsible for a child or young person) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

11.2 A child or young person shall not be treated as a member of the applicant's household where he is;

- a. placed with the applicant or his partner by a local authority under section 23(2)(a) of the Children Act 1989 or by a voluntary organisation under section 59(1)(a) of the Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- b. placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- c. placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 2009.

11.3 Subject to section 11.4, section 11.1 shall not apply to a child or young person who is not living with the applicant and he-

- 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; or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes).

11.4 The authority shall treat a child or young person to whom section 11.3a) applies as being a member of the applicant's household in any reduction week where;

- a. that child or young person lives with the applicant for part or all of that reduction week; and
- b. the authority considers that it is responsible to do so taking into account the nature and frequency of that child's or young person's visits.

11.5 In this paragraph 'relevant enactment' means the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957, the Matrimonial Proceedings (Children) Act 1958, the Social Work (Scotland) Act 1968, the Family Law Reform Act 1969, the Children and Young Persons Act 1969, the Matrimonial Causes Act 1973, the Children Act 1975, the Domestic Proceedings and Magistrates' Courts Act 1978, the Adoption and Children (Scotland) Act 1978, the Family Law Act 1986, the Children Act 1989, the Children (Scotland) Act 1995 and the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

## **Sections 12 – 29 & Schedules 1 & 2**

### **Definition and the treatment of income for council tax support purposes**

**12.0 Calculation of income and capital of members of applicant's family and of a polygamous marriage**

12.1 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.

12.2 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.

12.3 Where an applicant or the partner of an applicant is married polygamously to two or more members of his household:  
(a) the applicant must be treated as possessing capital and income belonging to each such member; and  
(b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

#### **Calculation of income and capital: persons who have an award of Universal Credit**

12.4 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 income prior to any earnings disregard 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.

- 12.5 The authority must adjust the amount referred to in sub-paragraph (1) to take account of
- (a) income consisting of the award of Universal Credit, determined in accordance with subparagraph (3);
  - (b) any sum to be disregarded under paragraphs of Schedule 1 to this scheme (sums to be disregarded in the calculation of earnings: persons who are not pensioners);
  - (c) any sum to be disregarded under paragraphs of Schedule 2 to this scheme (sums to be disregarded in the calculation of income other than earnings: persons who are pensioners)
  - (d) section 33 (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;
  - (e) 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).

12.6 The amount for the award of Universal Credit is to be determined by multiplying the amount of the award by 12 and dividing the product by 52.

12.7 Sections 33 (income and capital of non-dependant to be treated as applicant's) and 52 and 53 (disregards from income) apply (so far as relevant) for the purpose of determining any adjustments, which fall to be made to the figure for income under sub-paragraph (2)

12.8 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 that award

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

13.1 Where it appears to the authority that a non-dependant and the applicant have entered into arrangements in order to take advantage of the council tax support scheme and the non-dependant has more capital and income than the applicant, that authority shall, except where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, treat the applicant as possessing capital and income belonging to that non-dependant, and, in such a case, shall disregard any capital and income which the applicant does possess.

13.2 Where an applicant is treated as possessing capital and income belonging to a non-dependant under section 13.1 the capital and income of that non-dependant shall be calculated in accordance with the following provisions in like manner as for the applicant and any reference to the 'applicant' shall, except where the context otherwise requires, be construed for the purposes of this scheme as if it were a reference to that non-dependant.

### **14.0 Calculation of income on a weekly basis**

14.1 For the purposes of this scheme and in line with regulation 34 of the Housing Benefit Regulations 2006 (disregard to changes in tax, contributions, etc) the income of an applicant shall be calculated on a weekly basis;

- a. by estimating the amount which is likely to be his average weekly income in accordance with this Section and in line with Sections 2, 3, 4 and 5 of Part 6 of the Housing Benefit Regulations 2006;
- b. by adding to that amount the weekly income calculated in line with regulation 52 of the Housing Benefit Regulations 2006 (calculation to tariff income from capital); and

- c. by then deducting any relevant child care charges to which section 18 (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 section 15.2 are met, from those earnings plus whichever credit specified in sub-paragraph (b) of that paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in paragraph (3) applies in his case.

14.2 The conditions of this paragraph are that;

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

14.3 The maximum deduction to which section 14.1 c) above refers shall be;

- a. where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week.
- b. where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300.00 per week.

The amounts stated in this paragraph shall be amended in accordance with the Housing Benefit Regulations 2006 (as amended).

14.4 For the purposes of section 14.1 'income' includes capital treated as income under section 28 (capital treated as income) and income, which an applicant is treated as possessing under section 29 (notional income).

## 15.0 Treatment of child care charges

15.1 This section applies where an applicant is incurring relevant child-care charges and;

- a. is a lone parent and is engaged in remunerative work;
- b. is a member of a couple both of whom are engaged in remunerative work; or
- c. is a member of a couple where one member is engaged in remunerative work and the other;
  - i. is incapacitated;
  - ii. is an in-patient in hospital; or
  - iii. is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or a sentence).

15.2 For the purposes of section 15.1 and subject to section 15.4, a person to whom section 15.3 applies shall 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 Act;
- 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 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.

15.3 This 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.

- 15.4 In a case to which section 15.2 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.
- 15.5 Relevant child care charges are those charges for care to which sections 15.6 and 15.7 apply, and shall be calculated on a weekly basis in accordance with section 15.10.
- 15.6 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.
- 15.7 The charges are paid for care, which is provided by one, or more of the care providers listed in section 15.8 and are not paid-
- a. in respect of the child's compulsory education;
  - b. by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with section 10 (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.
- 15.8 The care to which section 15.7 refers may be provided;
- a. out of school hours, by a school on school premises or by a local authority;
    - i. for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
    - ii. for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their sixteenth birthday; or
  - b. by a child care provider approved in accordance with by the Tax Credit (New Category of Child Care Provider) Regulations 1999;
  - 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 8(1) of that Act, where the care provided is child minding or day care within the meaning of that Act; or
  - f. by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002 or
  - g. by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006; or
  - h. by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
  - i. by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
  - j. by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of 'childcare' for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
  - k. by a foster parent or kinship carer under the Fostering Services Regulations 2002, the Fostering Services (Wales) Regulations 2003 or the Looked After Children (Scotland) Regulations 2009 in

relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or

- l. by a domiciliary care worker under the Domiciliary Care Agencies Regulations 2002 or the Domiciliary Care Agencies (Wales) Regulations 2004; or
- m. by a person who is not a relative of the child wholly or mainly in the child's home.

15.9 In sections 15.6 and 15.8 a), 'the first Monday in September' means the Monday which first occurs in the month of September in any year.

15.10 Relevant child care charges shall 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 care.

15.11 For the purposes of section 15.1 c) the other member of a couple is incapacitated where

- a. the support component or the work-related activity component on account of his having limited capability for work
- b. the other member is treated as capable of work by virtue of a determination made in accordance with regulation made under section 171E of the Act;
- c. the other member is treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
- d. the applicant (within the meaning of this scheme) 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 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- e. the applicant (within the meaning of this scheme) has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- f. there is payable in respect of him one or more of the following pensions or allowances-
  - i. long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the Act;
  - ii. attendance allowance under section 64 of the Act;
  - iii. severe disablement allowance under section 68 of the Act;
  - iv. disability living allowance under section 71 of the Act;
  - v. personal independence payment under Welfare Reform Act 2012;
  - vi. an AFIP;
  - vii. increase of disablement pension under section 104 of the Act;
  - 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 head (ii) (iv) or (v) above;
  - ix. main phase employment and support
- g. a pension or allowance to which head (ii), (iv), (v) or (vi) of sub-paragraph (f) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this section shall mean a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of social security (Hospital In-Patients) Regulations 2005;
- h. 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;
- i. paragraphs (f) or (g) would apply to him if the legislative provisions referred to in those sub-paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
- j. he has an invalid carriage or other vehicle provided to him by the Secretary of State under section 5(2)(a) of and Schedule 2 to the National Health Service Act 1977 or under section 46 of the National Health Service (Scotland) Act 1978 or provided by the Department of Health,

- 15.12 For the purposes of section 15.11 once section 15.11d) applies to the applicant, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- 15.13 For the purposes of section 15.11, once section 15.11e) applies to the applicant, if he then ceases, for a period of 84 days or less, to have, or be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter apply to him for so long as he has, or is treated as having, limited capability for work.
- 15.14 For the purposes of sections 15.6 and 15.8 a), a person is disabled if he is a person-
- in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
  - 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
  - who ceased to be registered as blind in such a register within the period beginning 28 weeks before the Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
- 15.15 For the purposes of section 15.1 a woman on maternity leave, paternity leave or adoption leave shall be treated as if she is engaged in remunerative work for the period specified in section 15.16 ('the relevant period') provided that-
- in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
  - the applicant is incurring relevant child care charges within the meaning of section 15.5; and
  - she is entitled to either statutory maternity pay under section 164 of the Act, statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, statutory adoption pay by of section 171ZL of the Act, maternity allowance under section 35 of the Act or qualifying support.
- 15.16 For the purposes of section 15.15 the relevant period shall begin on the day on which the person's maternity, paternity leave or adoption leave commences and shall end on-
- the date that leave ends;
  - 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, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
  - if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credits ends.
- whichever shall occur first.
- 15.17 In sections 15.15 and 15.16
- 'qualifying support'** means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support Regulations 1987; and
  - 'child care element'** of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element) 2002.

15.18 in this section 'applicant' does not include an applicant;

- a. who has, or
- b. who (jointly with his partner) has an award of Universal Credit

**16.0 Average weekly earnings of employed earners**

16.1 Where an applicant's income consists of earnings from employment as an employed earner his average weekly earnings shall be estimated by reference to his earnings from that employment-

- a. over a period immediately preceding the reduction week in which the claim is made or treated as made and being a period of
  - i. 5 weeks, if he is paid weekly; or
  - ii. 2 months, if he is paid monthly; or
- b. whether or not sub-paragraph 16.1a i) or ii) applies; where an applicant's earnings fluctuate, over such other period preceding the reduction week in which the claim is made or treated as made as may, in any particular case, enable his average weekly earnings to be estimated more accurately.

16.2 Where the applicant has been in his employment for less than the period specified in section 16.1a)(i) or (ii)

- a. if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings shall be estimated by reference to those earnings;
- b. in any other case, the authority shall require the applicant's employer to furnish an estimate of the applicant's likely weekly earnings over such period as the authority may require and the applicant's average weekly earnings shall be estimated by reference to that estimate.

16.3 Where the amount of an applicant's earnings changes during an award the authority shall 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 shall not in any case exceed 52 weeks.

16.4 For the purposes of this section the applicant's earnings shall be calculated in accordance with sections 22 and 23.

**17.0 Average weekly earnings of self-employed earners**

17.1 Where an applicant's income consists of earnings from employment as a self-employed earner his average weekly earnings shall 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 shall not in any case exceed a year.

17.2 For the purposes of this section the applicant's earnings shall be calculated in accordance with sections 24 and 25 of this scheme.

**18.0 Average weekly income other than earnings**

18.1 An applicant's income which does not consist of earnings shall, except where section 15.2 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 shall not in any case exceed 52 weeks; and nothing in this paragraph shall authorise the authority to disregard any such income other than that specified in Schedule 2 of this scheme.

18.2 The period over which any benefit under the benefit Acts is to be taken into account shall be the period in respect of which that support is payable.



18.3 For the purposes of this section income other than earnings shall be calculated in accordance with sections 27 to 29 of this scheme.

### **19.0 Calculation of average weekly income from tax credits**

19.1 This section applies where an applicant receives a tax credit.

19.2 Where this sections applies, the period over which a tax credit is to be taken into account shall be the period set out in section 19.3

19.3 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;

19.4 For the purposes of this section 'tax credit' means child tax credit or working tax credit.

### **20.0 Calculation of weekly income**

20.1 For the purposes of sections 16 (average weekly earnings of employed earners); 18 (average weekly income other than earnings) and 19 (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 shall be the amount of that payment;
- b. exceeds a week, the weekly amount shall 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.

20.2 For the purpose of section 17 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant shall 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.

### **21.0 Disregard of changes in tax, contributions, etc**

21.1 In calculating the applicant's income the appropriate authority may disregard any legislative change

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

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

### **22.0 Earnings of employed earners**

- 22.1 Subject to section 22.2, 'earnings' means in the case of employment as an employed earner, 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-
  - g. (i) travelling expenses incurred by the applicant between his home and his 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;
  - h. 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);
  - i. 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);
  - j. any such sum as is referred to in section 112 of the Act (certain sums to be earnings for social security purposes);
  - k. 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;
  - l. 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;
  - m. 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.

22.2 Earnings shall not include-

- a. subject to section 22.3, any payment in kind;
- b. any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of employment;
- c. any occupational pension;
- d. any payment in respect of expenses arising out of the applicant's participation as a service user.

22.3 Section 22.2a) shall not apply in respect of any non-cash voucher referred to in section 22.1m).

**23.0 Calculation of net earnings of employed earners**

23.1 For the purposes of section 16 (average weekly earnings of employed earners), the earnings of an applicant derived or likely to be derived from employment as an employed earner to be taken into account shall, subject to section 23.2, be his net earnings.

23.2 There shall be disregarded from an applicant's net earnings, any sum, where applicable, specified in Schedule 1.

23.3 For the purposes of section 23.1 net earnings shall, except where section 26.6 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 Act;
- 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 section 23.5 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 for those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the Act.

23.4 In this section 'qualifying contribution' means any sum which is payable periodically as a contribution towards a personal pension scheme.

23.5 The amount in respect of any qualifying contribution shall 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 section the daily amount of the qualifying contribution shall 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.

23.6 Where the earnings of an applicant are estimated under sub-paragraph (b) of paragraph 2) of the section 16 (average weekly earnings of employed earners), his net earnings shall 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 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rata basis;
- b. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and
- c. one-half of any sum 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.

#### **24.0 Earnings of self-employed earners**

24.1 Subject to section 24.2, 'earnings' in the case of employment as a self-employed earner, means the gross income of the employment plus any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

24.2 'Earnings' shall not include any payment (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 shall it include any sports award.

24.3 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 of work concerned.

- 24.4 Where the applicant's earnings consist of any items to which section 24.3 applies, those earnings shall 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 the reduction under this scheme which would be payable 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 1 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

## **25.0 Calculation of net profit of self-employed earners**

- 25.1 For the purposes of section 17 (average weekly earnings of self-employed earners) the earnings of an applicant to be taken into account shall be
- a. in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
  - b. in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment, less-
    - i. an amount in respect of income tax and of national insurance contributions payable under the Act calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
    - ii. one-half of the amount calculated in accordance with section 25.11 in respect of any qualifying premium.
- 25.2 There shall be disregarded from an applicant's net profit, any sum, where applicable, specified in paragraph Schedule 1.
- 25.3 For the purposes of section 25.1a) the net profit of the employment must, except where section 25.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less
- a. subject to sections 25.5 to 25.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
  - b. an amount in respect of;
    - (i) income tax, and
    - (ii) national insurance contributions payable under the Act, calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
  - c. one-half of the amount calculated in accordance with section 25.11 in respect of any qualifying premium.
- 25.4 For the purposes of section 25.1b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to sections 25.5 to 25.7, any expenses wholly and exclusively incurred in that period for the purposes of the employment.
- 25.5 Subject to section 25.6 no deduction shall be made under section 25.3a or 25.4, in respect of-
- a. any capital expenditure;
  - b. the depreciation of any capital asset;
  - c. any sum employed or intended to be employed in the setting up or expansion of the employment;
  - d. any loss incurred before the beginning of the assessment period;
  - e. the repayment of capital on any loan taken out for the purposes of the employment;

- f. any expenses incurred in providing business entertainment, and
- g. any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

25.6 A deduction shall be made under section 25.3a) or 25.4 in respect of the repayment of capital on any loan used for-

- a. the replacement in the course of business of equipment or machinery; and
- b. the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;

25.7 The authority shall refuse to make deduction in respect of any expenses under section 25.3a) or 25.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

25.8 For the avoidance of doubt-

- a. deduction shall not be made under section 25.3a) or 25.4 in respect of any sum unless it has been expended for the purposes of the business;
- b. a deduction shall be made thereunder in respect of-
  - i. the excess of any value added tax paid over value added tax received in the assessment period;
  - ii. any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - iii. any payment of interest on a loan taken out for the purposes of the employment

25.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of

- a. income tax; and
- b. National Insurance contributions payable under the Act, calculated in accordance with section 26 (deduction of tax and contributions for self-employed earners); and
- c. one-half of the amount calculated in accordance with section 25.1 in respect of any qualifying contribution

25.10 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 shall not be offset against his earnings in any other of his employments.

25.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined

- a. where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
- b. in any 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.

25.12 In this section, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

## **26.0 Deduction of tax and contributions of self-employed earners**

26.1 The amount to be deducted in respect of income tax under section 25.1b)i), 25.3b)i) or 25.9a)i) (calculation of net profit of self-employed earners ) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; 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 shall be calculated on a pro rata basis.

26.2 The amount to be deducted in respect of national insurance contributions under sections 25.11b)i); 25.3b)ii) or 25.9a) shall be the total of-

- a. the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act 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 the Act (small earnings exceptions) 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 shall be reduced pro rata; and
- b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (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 shall be reduced pro rata.

26.3 In this section 'chargeable incomes' means-

- a. except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under section (25.3)(a) or, as the case may be, (25.4) of section 25;
- b. in the case of employment as a child minder, one-third of the earnings of that employment.

**27.0 Calculation of income other than earnings**

27.1 For the purposes of section 18 (average weekly income other than earnings), the income of an applicant which does not consist of earnings to be taken into account shall, subject to sections 24.2 to 24.4, be his gross income and any capital treated as income under section 28 (capital treated as income).

27.2 There is to be disregarded from the calculation of an applicant's gross income under section 27.2, any sum, where applicable, specified in Schedule 2.

27.3 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 section 27.1 shall be the gross amount payable.

27.4 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.

27.5 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 section 21.1 shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

27.6 In section 27.5 'tax year' means a period beginning with 6 April in one year and ending with 5 April in the next.

27.7 Section 27.8 and 27.9 apply where a relevant payment has been made to a person in an academic year; and that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

27.8 Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of section 27.1 in respect of a person to whom section 27.7 applies, shall be calculated by applying the formula-

$$\frac{A-(B \times C)}{D}$$

Where

A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under section 48.5.

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 = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under section 48.2 had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to council tax support immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit;

D = the number of support weeks in the assessment period.

27.9 Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of section 27.1 in respect of a person to whom section 27.8 applies, shall be calculated by applying the formula in section 27.8 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 section 48.5.

27.10 In this section-‘academic year’ and ‘student loan’ shall have the same meanings as for the purposes of sections 40 to 42, ‘assessment period’ means-

- a. in a case where a relevant payment is made quarterly, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes the last day of the last quarter for which an instalment of the relevant payment was payable to that person;
- b. in a case where the relevant payment is made by two or more instalments in a quarter, the period beginning with the reduction week which includes the day on which the person abandoned, or was dismissed from, his course and ending with the reduction week which includes-
  - i. the day immediately before the day on which the next instalment of the relevant payment would have been due had the payments continued; or
  - ii. the last day of the last quarter for which an instalment of the relevant payment was payable to that person.

whichever of those dates is earlier

‘quarter’ in relation to an assessment period means a period in that year beginning on;

- a. 1 January and ending on 31 March;
- b. 1 April and ending on 30 June;
- c. 1 July and ending on 31 August; or
- d. 1 September and ending on 31 December;

‘relevant payment’ means either a student loan or an amount intended for the maintenance of dependants referred to in section 43.7 or both.

27.11 For the avoidance of doubt there shall be included as income to be taken into account under section 27.1

- a. any payment to which section 22.2 (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 section 3 of Schedule 8 to the Immigration and Asylum Act 1999.

**28.0 Capital treated as income**

- 28.1 Any capital payable by instalments which are outstanding at the date on which the claim is made or treated as made, or, at the date of any subsequent revision or supersession, shall, if the aggregate of the instalments outstanding and the amount of the applicant's capital otherwise calculated in accordance with sections 28 to 39 of this scheme exceeds £6,000, be treated as income.
- 28.2 Any payment received under an annuity shall be treated as income.
- 28.3 Any earnings to the extent that they are not a payment of income shall be treated as income.
- 28.4 Any Career Development Load paid pursuant to section 2 of the Employment and Training Act 1973 Act shall be treated as income.
- 28.5 Where an agreement or court order provides that payments shall 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 period payments, any such periodic payments received by the applicant (but not a payment which is treated as capital), shall be treated as income.

**29.0 Notional Income**

- 29.1 An applicant shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement of support or increasing the amount of that support.
- 29.2 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 section 46(2)(a) of Schedule 4 (capital to be disregarded) applies which is administered in the way referred to in section 46(1)(a);
  - e. any sum to which section 47(a) of Schedule 4 refers;
  - f. rehabilitation allowance made under section 2 of the 1973 Act;
  - g. child tax credit; or
  - h. working tax credit;
  - i. any sum to which section 29.11 applies;
- any income which would become available to the applicant upon application being made, but which has not been acquired by him, shall 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.
- 29.3 Any payment of income, other than a payment of income specified in section 29.4 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) shall, where that payment is a payment of an occupational pension, a pension or other periodical payment made under or by 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) shall, where it is not a payment referred to in sub-section 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;



- b. 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) shall 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 that family.

29.4 Section 29.3 shall not apply in respect of a payment of income made-

- a. under 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 1973 Act 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;
  - (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 previous participation in the Mandatory Work Activity Scheme;
- e. 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 judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any income apart from that payment.

29.5 Where an applicant is in receipt of any benefit (other than council tax support) under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1 April in any year but not more than 14 days thereafter, the authority shall treat the applicant as possessing such benefit at the altered rate from either 1 April or the first Monday in April in that year, whichever date the authority shall select to apply in its area, to the date on which the altered rate is to take effect.

29.6 Subject to section 29.7, where-

- a. 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 shall 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.

29.7 Section 29.6 shall 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 Job Seeker's Allowance Regulations, 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.

29.8 In section 29.7(c) 'work placement' means practical work experience which is not undertaken in expectation of payment

29.9 Where an applicant is treated as possessing any income under any of section 29.1 to 29.5, the foregoing provisions of this scheme shall apply for the purposes of calculating the amount of that income as if a payment has actually been made and as if it were actual income which he does possess.

29.10 Where an applicant is treated as possessing any earnings under section 29.6 the foregoing provisions of this scheme shall 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 (3) of section 23 (calculation of net earnings of employed earners) shall not apply and his net earnings shall be calculated by taking into account those earnings which he treated as possessing, less;

a. an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the starting rate or, as the case may be, the starting rate and the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 257(1) of the Income and Corporation Taxes Act 1988 (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the starting rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph shall be calculated on a pro rate basis;

c. an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Act in respect of those earnings if such contributions were payable; and

c. one-half of any sum payable by the applicant by way of a contribution towards an occupational or personal pension scheme.

29.11 Sections 29.1, 29.2, 29.3 and 29.6 shall 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 as a service user.

## Sections 30 - 39 & Schedule 4

### Definition and the treatment of capital for council tax support purposes

#### 30.0 Capital Limit

30.1 For the purposes of this scheme, the prescribed amount is £6,000 and no support shall be granted when the applicant has an amount greater than this level.

#### 31.0 Calculation of capital

31.1 For the purposes of this scheme, the capital of an applicant to be taken into account shall, subject to section 31.2, be the whole of his capital calculated in accordance with this scheme and any income treated as capital under section 33 (income treated as capital).

31.2 There shall be disregarded from the calculation of an applicant's capital under section 31.1, any capital, where applicable, specified in Schedule 4.

**32.0 Disregard of capital of child and young person**

32.1 The capital of a child or young person who is a member of the applicant's family shall not be treated as capital of the applicant.

**33.0 Income treated as capital**

33.1 Any bounty derived from employment and paid at intervals of at least one year shall be treated as capital.

33.2 Any amount by way of a refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E shall be treated as capital.

33.3 Any holiday pay which is not earnings under section 22(1)(d) (earnings of employed earners) shall be treated as capital.

33.4 Except any income derived from capital disregarded under sections 1, 2, 4, 8, 14 or 25 to 28, 47 or 48 of Schedule 4, any income derived from capital shall be treated as capital but only from the date it is normally due to be credited to the applicant's account.

33.5 In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer shall be treated as capital.

33.6 Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Independent Living Fund (2006) or the London Bombings Charitable Relief Fund, shall be treated as capital.

33.7 There shall 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.

33.8 Any arrears of subsistence allowance which are paid to an applicant as a lump sum shall be treated as capital.

33.9 Any arrears of working tax credit or child tax credit shall be treated as capital.

**34.0 Calculation of capital in the United Kingdom**

34.1 Capital which an applicant possesses in the United Kingdom shall 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;

**35.0 Calculation of capital outside the United Kingdom**

35.1 Capital which an applicant possesses in a country outside the United Kingdom shall 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 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.

**36.0 Notional capital**

36.1 An applicant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to council tax support or increasing the amount of that support except to the extent that that capital is reduced in accordance with section 37 (diminishing notional capital rule).

36.2 Except in the case of

- (a) a discretionary trust; or
  - (b) a trust derived from a payment made in consequence of a personal injury; or
  - (c) any loan which would be obtained only if secured against capital disregarded under Schedule 5; 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 section 46(2)(a) of Schedule 4 (capital to be disregarded) applies which is administered in the way referred to in section 46(1)(a); or
  - (f) any sum to which section 47(a) of Schedule 4 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, shall be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

36.3 Any payment of capital, other than a payment of capital specified in section 36.4, 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) shall, 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) shall, where it is not a payment referred to in sub-paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) shall 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.

36.4 Section 36.3 shall not apply in respect of 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 to the London Bombing Relief Charitable Fund;
- (b) pursuant to section 2 of the 1973 Act 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;
  - (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;
- (bb) in respect of a person's participation in the Mandatory Work Activity Scheme; Enterprise Scheme

- (bc) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (d) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where-
  - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
  - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
  - (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

36.5 Where an applicant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he may be treated as if he were such sole owner or partner and in such case

- a. the value of his holding in that company shall, notwithstanding section 31 (calculation of capital) be disregarded; and
- b. he shall, subject to section 36.6, 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 Section shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

36.6 For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under section 36.5 shall be disregarded.

36.7 Where an applicant is treated as possessing capital under any of sections 36.1 to 36.2 the foregoing provisions of this Section shall apply for the purposes of calculating its amount as if it were actual capital which he does possess.

### **37.0 Diminishing notional capital rule**

37.1 Where an applicant is treated as possessing capital under section 36.1 (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 section 37.2 are satisfied; or
  - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under section 37.3;
- b. in the case of a week in respect of which section 37.1(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 section 37.4 is satisfied, shall be reduced by the amount determined under section 37.4

37.2 This paragraph applies to a reduction week or part-week where the applicant satisfies the condition that

- a. he is in receipt of council tax support; and
- b. but for section 36.1, he would have received an additional amount of council tax support in that week.

37.3 In a case to which section 37.2 applies, the amount of the reduction for the purposes of section 37.1(a) shall be equal to the aggregate of

- a. the additional amount to which sub-section 37.2(b) refers;
- b. where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or

part of the reduction week to which section 37.2 refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);

- c. where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the reduction week to which section 37.2 refers but for the application of regulation 51(1) of the Income Support Regulations (notional capital);
- d. where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the reduction week to which section 37.2 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 reduction week to which section 37.2 refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).

37.4 Subject to section 37.5, for the purposes of section 37.1(b) the condition is that the applicant would have been entitled to council tax support in the relevant week but for section 36.1, and in such a case the amount of the reduction shall be equal to the aggregate of

- a. the amount of council tax support to which the applicant would have been entitled in the relevant week and for the purposes of this sub-paragraph is the amount in respect of a part-week, that amount shall be determined by dividing the amount of council tax support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
- b. if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the reduction week which includes the last day of the relevant week, the amount which is equal to-
  - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
  - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled,and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of housing benefit to which he would have been entitled by the number equal to that number of days in the part-week and multiplying the quotient so obtained by 7;
- a. if the applicant would, but for regulation 51(1) of the Income Support Regulations, have been entitled to income support in respect of the reduction week, within the meaning of regulation 2(1) of those Regulations, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income support to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;
- b. 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 reduction week, within the meaning of this scheme, which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount shall be determined by dividing the amount of the income-based jobseeker's allowance to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7; and
- c. 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 reduction week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled and, for the purposes of this sub-paragraph, if the amount is in respect of a part-week, that amount must be determined by dividing the amount of the income-related employment and support allowance to which he would have been so entitled by the number

equal to the number of days in that part-week and multiplying the quotient so obtained by 7;

37.5 The amount determined under section 37.4 shall be re-determined under that paragraph if the applicant makes a further claim for council tax support and the conditions in section 37.6 are satisfied, and in such a case-

- a. sub-paragraphs (a) to (d) of section 37.4 shall apply as if for the words 'relevant week' there were substituted the words 'relevant subsequent week'; and
- b. subject to section 37.7, the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

37.6 The conditions are that

- a. a further claim is made 26 or more weeks after
  - (i) the date on which the applicant made a claim for council tax support in respect of which he was first treated as possessing the capital in question under section 36.1;
  - (ii) in a case where there has been at least one re-determination in accordance with section 37.5, the date on which he last made a claim for council tax support which resulted in the weekly amount being re-determined, or
  - (iii) the date on which he last ceased to be entitled to council tax support, whichever last occurred; and
- b. the applicant would have been entitled to council tax support but for section 36.1

37.7 The amount as re-determined pursuant to section 37.5 shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

37.8 For the purposes of this section

- a. 'part-week'
  - (i) in section 37.4(a) means a period of less than a week for which council tax support is allowed;
  - (ii) in section 37.4(b) means a period of less than a week for which housing benefit is payable;
  - (iii) in section 37.4(c), (d) and (e) means-
    - aa. a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
    - bb. any other period of less than a week for which it is payable;
- b. 'relevant week' means the reduction week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of section 39.1
  - (i) was first taken into account for the purposes of determining his entitlement to council tax reduction; or
  - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to the council tax support on that subsequent occasion and that determination or re- determination resulted in his beginning to receive, or ceasing to receive, council tax reduction;  
and where more than one reduction week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such reduction week or, as the case may be, the later or latest such part-week;
- c. 'relevant subsequent week' means the reduction week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.

## 38.0 Capital jointly held

38.1 Except where an applicant possesses capital which is disregarded under section 36(5) (notional capital) where an applicant and one or more persons are beneficially entitled in possession to any capital asset they shall 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 Section shall 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

**39.0 Calculation of tariff income from capital**

39.1 No tariff income will be applied for capital less than £6,000.

**Sections 40 - 53**

**Definition and the treatment of students for council tax support purposes**

**40.0 Student related definitions**

40.1 In this scheme the following definitions apply;

**‘academic year’** means the period of twelve months beginning on 1 January, 1 April, 1 July or 1 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 shall 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 section 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 consider that it is reasonable for the following person to contribute towards the holder’s expenses;
  - (i) the holder of the allowance or bursary;
  - (ii) the holder’s parents;
  - (iii) the holders 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
  - (iii) 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 education authority as defined in section 12 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 Island, 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 12 of Schedule 4 or paragraph 53 of Schedule 5 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 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, the 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;
- d. 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;

**'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.

**'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 regulations 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 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 shall include, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Student's Allowances (Scotland) Regulations 2007

40.2 For the purposes of the definition of 'full-time student', a person shall 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. in the case of 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.

40.3 For the purposes of sub-paragraph (a) of section 40.2, the period referred to in that sub-paragraph shall include;

- a. where a person has failed examinations or has failed to successfully 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.

#### **41.0 Treatment of students**

41.1 The following sections relate to students who claim council tax support

#### **42.0 Students who are excluded from entitlement to council tax support**

42.1 Students (except those specified in section 42.3) are not able to claim council tax support under the Council's support scheme.

42.2 To be eligible for support, the student must be liable for council tax under Section 6 of the Local Government Finance Act 1992 and they must not be deemed to be a full-time student or a persons from abroad within the meaning of section 7 of this scheme (persons from abroad).

42.3 Section 42.2 shall 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 section, 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 Act;
- (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 Act (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days shall be treated as one continuous period;
- (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 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period.
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989, or, in Scotland, boarded out within the

- meaning of the Social Work (Scotland) Act 1968;
- (i) who is;
    - (i) aged under 21 and whose course of study is not a course of higher education, or
    - (ii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);
  - (ii) 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) or regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
    - (iii) a payment has been made under section 2 of the Education Act 1962 or under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
    - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
    - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

For the purposes of section 42.3(h)(i) the student must have begun, or been enrolled or accepted onto the course before attaining the age of 19

- 42.4 For the purposes of section 42.3, once section 42.3(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 paragraph shall, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.
- 42.5 In section 42.3(h) 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.
- 42.6 A full-time student to whom sub-paragraph (i) of section 42.3 applies, shall 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.
- 42.7 Section 42.2 shall not apply to a full-time student for the period specified in section 42.8 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 engaging 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 section 42.8.
- 42.8 The period specified for the purposes of section 42.7 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,
- which shall first occur.

### 43.0 Calculation of grant income

- 43.1 The amount of a student's grant income to be taken into account shall, subject to sections 43.2 and 43.3, be the whole of his grant income.
- 43.2 There shall 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 of 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 111 of the Children Act 1989.
- 43.3 Where a student does not have a student loan and is not treated as possessing such a loan, there shall 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.
- The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).
- 43.4 There shall 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.
- 43.5 Subject to sections 43.6 and 43.7, a student's grant income shall be apportioned;
- (a) subject to section 43.8, in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the reduction week, the first day of which coincides with, or immediately follows the first day of the period of study and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
  - (b) in any other case, equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- 43.6 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 2004 shall be apportioned equally over the period of 52 weeks or, if there are 53 reduction weeks (including part-weeks) in the year, 53.
- 43.7 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 section 43.6 nor section 47 (other amounts to be disregarded) apply, shall be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- 43.8 In the case of a student on a sandwich course, any periods of experience within the period of study shall be excluded and the student's grant income shall be apportioned equally between the weeks in

the period beginning with the reduction week, the first day of which immediately follows the last day of the period of experience and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

**44.0 Calculation of covenant income where a contribution is assessed**

44.1 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 shall be the whole amount of the covenant income less, subject to section 44.3, the amount of the contribution.

44.2 The weekly amount of the student's covenant shall be determined-

- (a) by dividing the amount of income which falls to be taken into account under section 44.1 by 52 or 53, whichever is reasonable in the circumstances;

44.3 For the purposes of section 44.1, the contribution shall be treated as increased by the amount (if any) by which the amount excluded under section 43.2(g) (calculation of grant income) falls short of the amount specified in section 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

**45.0 Covenant income where no grant income or no contribution is assessed**

45.1 Where a student is not in receipt of income by way of a grant the amount of his covenant income shall be calculated as follows;

- (a) any sums intended for any expenditure specified in section 43.2 (a) to (e) (calculation of grant income) necessary as a result of his attendance on the course shall be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, shall be apportioned equally between the weeks of the period of study;
- (c) there shall be disregarded from the amount so apportioned the amount which would have been disregarded under section 43.2(f) and 43.3 (calculation of grant income) had the student been in receipt of the standard maintenance grant; and
- (d) the balance, if any, shall be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income.

45.2 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 shall be calculated in accordance with sub-paragraphs (a) to (d) of section 45.1, except that;

- (a) the value of the standard maintenance grant shall be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under section 43.2 (a) to (e); and
- (b) the amount to be disregarded under section 45.1(c) shall be abated by an amount equal to the amount of any sums disregarded under section 43.2(f) and (g) and 43.3.

**46.0 Student Covenant Income and Grant Income – non disregard**

46.1 No part of a student's covenant income or grant income shall be disregarded under paragraph 15 of Schedule 2 to this scheme.

**47.0 Other amounts to be disregarded**

47.1 For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with section 51, any amounts intended for any expenditure specified in section 43.2 (calculation of grant income), necessary as a result of his attendance on the course shall be disregarded but only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under sections 43.2 or 43.3, 44.3, 45.1(a) or (c) or 48.5 (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

**48.0 Treatment of student loans**

48.1 A student loan shall be treated as income.

48.2 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 shall be apportioned equally between the weeks in the period beginning with;
    - (i) except in a case where (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
    - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the reduction week, the first day of which coincides with, or immediately follows, the first day of the course, and ending with the reduction week, the last day of which coincides with, or immediately precedes with, the last day of the course;
  - (b) in respect of an academic year of a course which starts other than on 1 September, a loan which is payable in respect of that academic year shall be apportioned equally between the weeks in the period beginning with the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of that academic year but excluding any reduction weeks falling entirely within the quarter during which, in the opinion of the Secretary of State, the longest of any vacation is taken and for the purposes of this subparagraph, 'quarter' shall have the same meaning as for the purposes of the Education (Student Support) Regulations 2005;
  - (c) in respect of the final academic year of a course (not being a course of a single year's duration), a loan which is payable in respect of that final academic year shall be apportioned equally between the weeks in the period beginning with;
    - (i) except in a case where (ii) applies, the reduction week, the first day of which coincides with, or immediately follows, the first day of that academic year;
    - (ii) where the final academic year starts on 1 September, the reduction week, the first day of which coincides with, or immediately follows, the earlier of 1 September or the first day of the autumn term,  
and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
  - (d) in any other case, the loan shall be apportioned equally between the weeks in the period beginning with the earlier of;
    - (i) the first day of the first reduction week in September; or
    - (ii) the reduction week, the first day of which coincides with, or immediately follows, the first day of the autumn term,  
and ending with the reduction week, the last day of which coincides with, or immediately precedes, the last day of the course;
- and, in all cases, from the weekly amount so apportioned there shall be **disregarded £10**.

48.3 A student shall 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.

48.4 Where a student is treated as possessing a student loan under section 48.3, the amount of the student loan to be taken into account as income shall be, subject to section 48.5

- (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.

48.5 There shall be deducted from the amount of income taken into account under section 48.4

- (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.

The above figures will be increased annually in line with the Housing Benefit Regulations 2006 (as amended).

#### **49.0 Treatment of fee loans and treatment of payments from access funds**

49.1 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 income.

49.2 This paragraph applies to payments from access funds that are not payments to which section 52.2 or 52.3 (income treated as capital) applies.

49.3 A payment from access funds, other than a payment to which section 49.4 applies, shall be disregarded as income.

49.4 Subject to section 49.5 of this section and section 35 of Schedule 2,

- (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, shall be disregarded as income to the extent of £20 per week.

49.5 Where a payment from access funds is made-

- (a) on or after 1 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 shall be disregarded as income.

#### **50.0 Disregard of contribution**

50.1 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 partner's income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner's income.

#### **51.0 Further disregards of student's income**

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

#### **52.0 Income treated as capital**

52.1 Any amount by way of a refund of tax deducted from a student's covenant income shall be treated as capital.



52.2 Any amount paid from access funds as a single lump sum shall be treated as capital.

52.3 An amount paid from access fund 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, shall be disregarded as capital but only for a period of 52 weeks from the date of payment.

### **53.0 Disregard of changes occurring during summer vacation**

53.1 In calculating a student's income the authority shall 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.

## **Sections 54 - 65**

### **The calculation and amount of council tax support**

#### **54.0 Maximum council tax support**

54.1 Subject to sections 54.2 to 54.4, the amount of a person's maximum council tax support in respect of a day for which he is liable to pay council tax, shall be 100 per cent, of the amount A divided by B where;

(a) A is the amount set by the appropriate authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and

(b) B is the number of days in that financial year, less any deductions in respect of non-dependants which fall to be made under section 55 (non-dependant deductions).

54.2 In calculating a person's maximum council tax support 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, shall be taken into account.

54.3 Subject to section 54.4, 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 but excepting any person so residing with the applicant who is a student to whom section 42.2 (students who are excluded from entitlement to council tax support) applies, in determining the maximum council tax support in his case in accordance with section 54.1, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.

54.4 Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, section 54.3 shall not apply in his case.

#### **55.0 Non-dependant deductions**

55.1 Subject to the following provisions of this section, the non-dependant deductions in respect of a day referred to in section 54 (maximum council tax support) shall be;

(a) in respect of a non-dependant aged 18 or over in remunerative work, £11.55 x 1/7;

(b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, £3.80 x 1/7.

- 55.2 In the case of a non-dependant aged 18 or over to whom section 58.1(a) applies, where it is shown to the appropriate authority that his normal gross weekly income is-
- (a) less than £196.95, the deduction to be made under this paragraph shall be that specified in paragraph 58.1(b);
  - (b) not less than £196.95, but less than £341.40, the deduction to be made under this section shall be £7.65
  - (c) not less than £341.40, but less than £424.20, the deduction to be made under this section shall be £9.65;
- 55.3 Only one deduction shall be made under this section in respect of a couple or, as the case may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.
- 55.4 In applying the provisions of section 55.2 in the case of a couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of that paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.
- 55.5 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 or 77 or 77A of the 1992 Act (liability of spouse and civil partners); and
  - (c) the person to whom sub-paragraph (a) refers is a non-dependant of two or more of the liable persons, the deduction in respect of that non-dependant shall be apportioned equally between those liable persons.
- 55.6 No deduction shall 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; 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 Act; 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 Act; or
      - (bb) an abatement as a result of hospitalisation; or
  - (c) 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);
  - (d) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.
- 55.7 No deduction shall 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 a youth training established under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
  - (c) he is a full-time student within the meaning of section 44.0 (Students); or

- (d) he is not residing with the applicant because he has been a patient for a period of excess of 52 weeks, and for these purposes;
  - (i) 'patient' has the meaning given within this scheme, and
  - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he shall be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

55.8 No deduction shall be made in respect of a non-dependant;

- (a) who is on income support, state pension credit, an income-based jobseeker's allowance or an income-related employment and support allowance; or
- (b) to whom Schedule 1 of the 1992 Act applies (persons disregarded for purposes of discount) but this sub-paragraph shall not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (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. – earned income has the meaning given in regulation 52 of the Universal Credit regulations 2013(a)

55.9 In the application of section 55.2 there shall be disregarded from his weekly gross income-

- (a) any attendance allowance, disability living allowance or personal independence payment or an AFIP received by him;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which had his income fallen to be calculated under section 30 (calculation of income other than earnings) would have been disregarded under paragraph 24 of Schedule 4 (income in kind); and
- (c) any payment which had his income fallen to be calculated under section 30 would have been disregarded under paragraph 36 of Schedule 4 (payments made under certain trusts and certain other payments).

## 56.0 Extended support

56.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be entitled to 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;
- (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.

56.2 For the purpose of section 56.1c, 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.

56.3 For the purpose of this section, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they shall be treated as being entitled to and in receipt of jobseeker's allowance.

56.4 An applicant must be treated as entitled to council tax support by virtue of the general conditions of entitlement where-

- (a) the applicant ceased to be entitled to council tax support 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 section 56.1(b).

56.5 This section shall not apply where, on the day before an applicant's entitlement to income support ceased, the regulation 6(5) of the Income Support Regulations (remunerative work: housing costs) applied to that applicant.

#### **57.0 Duration of extended support period**

57.1 Where an applicant is entitled to a support reduction, 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.

57.2 For the purpose of section 57.1, 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.

57.3 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.

#### **58.0 Amount of extended support**

58.1 For any week during the extended support period the amount of the extended support payable to an applicant shall be the higher of-

- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement 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 council tax support to which the applicant would be entitled under the general conditions of entitlement for any support week during the extended support period, if section 56 (extended support) did not apply to the applicant; or
- (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 56 did not apply to the applicant.

58.2 Section 58.1 does not apply in the case of a mover.

58.3 Where an applicant is in receipt of extended support under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended support period.

#### **59.0 Extended support – movers**

59.1 This section applies;

- (a) to a mover; and
- (b) from the Monday following the day of the move.

59.2 The amount of the extended support payable from the Monday from which this section applies until the end of the extended support period shall be the amount of council tax support 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 income-related benefit.

- 59.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended support may take the form of a payment from the appropriate authority to;
- (a) the second authority; or
  - (b) the mover directly.

- 59.4 Where-
- (a) a mover, or the mover's partner, makes a claim for council tax support to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying income-related benefit; and
  - (b) the mover, or the mover's partner, is in receipt of extended support from the appropriate authority, the second authority shall reduce the weekly amount of council tax support that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended support until the end of the extended support period.

**60.0 Relationship between extended support and entitlement to council tax support under the general conditions of entitlement**

- 60.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the circumstances listed in section 56(b), that award will not cease until the end of the extended support period.

- 60.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended support payable in accordance with section 58.1(a) or 59.2 (amount of extended support – movers).

**61.0 Extended support (qualifying contributory benefits)**

- 61.1 An applicant who is entitled to council tax support (by virtue of the general conditions of entitlement) shall be 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, 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.

- 61.2 An applicant must be treated as entitled to council tax support by virtue of the general conditions of entitlement where:
- (a) the applicant ceased to be entitled to council tax support 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 section 61.1(b).

**62.0 Duration of extended support period (qualifying contributory benefits)**

- 62.1 Where an applicant is entitled to 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.
- 62.2 For the purpose of section 62.1, 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.
- 62.3 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 (qualifying contributory benefits) is payable has no liability for council tax, if that occurs first.

**63.0 Amount of extended support (qualifying contributory benefits)**

- 63.1 For any week during the extended support period the amount of the extended support (qualifying contributory benefits) payable to an applicant shall be the higher of;
- (a) the amount of council tax support to which the applicant was entitled under the general conditions of entitlement 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 council tax support to which the applicant would be entitled under the general conditions of entitlement for any support week during the extended support period, if section 61 (extended reductions (qualifying contributory benefits) did not apply to the applicant; or
  - (c) the amount of council tax support to which the applicant's partner would be entitled under the general conditions of entitlement, if section 61 did no apply to the applicant.
- 63.2 Section 63.1 does not apply in the case of a mover.
- 63.3 Where an applicant is in receipt of extended support (qualifying contributory benefits) under this section and the applicant's partner makes a claim for council tax support, no amount of council tax support shall be payable by the appropriate authority during the extended support period.

**64.0 Extended support (qualifying contributory benefits) – movers**

- 64.1 This section applies;
- (a) to a mover; and
  - (b) from the Monday following the day of the move.
- 64.2 The amount of the extended support (qualifying contributory benefit) payable from the Monday from which this section applies until the end of the extended support period shall be the amount of council tax support 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.
- 64.3 Where a mover's liability to pay council tax in respect of the new dwelling is to the second authority, the extended support (qualifying contributory benefits) may take the form of a payment from the appropriate authority to-
- the second authority; or  
the mover directly.
- 64.4 Where
- (a) a mover, or the mover's partner, makes a claim for council tax support to the second authority after the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit; and

- (b) the mover, or the mover's partner, is in receipt of extended support (qualifying contributory benefits) from the appropriate authority, the second authority shall reduce the weekly amount of council tax support that the mover, or the mover's partner, is entitled to by a sum equal to the amount of the extended support (qualifying contributory benefits) until the end of the extended support period.

**65.0 Relationship between extended support (qualifying contributory benefits) and entitlement to council tax support under the general conditions of entitlement**

- 65.1 Where an applicant's council tax support award would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in section 61.1(b) that award will not cease until the end of the extended support period.
- 65.2 Changes of circumstances and increases for exceptional circumstances shall not apply to any extended reduction (qualifying contributory benefits) payable in accordance with section 63.1(a) or 64.2 (amount of extended support – movers).

**Sections 66 - 67**

**Dates on which entitlement and changes of circumstances are to take effect**

**66.0 Date on which entitlement is to begin**

- 66.1 Subject to section 66.2, any person to whom or in respect of whom a claim for council tax support is made and who is otherwise entitled to that support shall be so entitled from the week following the date on which that claim is made or is treated as made.
- 66.2 Where a person is otherwise entitled to council tax support 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 that week in which his claim is made or is treated as made, he shall be so entitled from that week.

**67.0 Date on which change of circumstances is to take effect**

- 67.1 Except in cases where section 21 (disregards of changes in tax, contributions, etc) applies and subject to the following provisions of this paragraph, a change of circumstances which affects entitlement to, or the amount of, a reduction under the authority's scheme ("change of circumstances"), takes effect from the first day of the week following the date on which the change actually occurs, and where that change is cessation of entitlement to any benefit under the benefits Acts, the date on which the change actually occurs shall be the day immediately following the last day of entitlement to that benefit.
- 67.2 Subject to paragraph (3), 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.
- 67.3 Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under sections 11 or 12 of that Act, it shall take effect from the day on which the change in amount has effect.
- 67.4 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.
- 67.5 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.

- 67.6 If two or more changes of circumstances occurring in the same week would, but for this paragraph, take effect in different weeks in accordance with paragraphs (1) to (5) they take effect from the day to which the appropriate paragraph from (2) to (5) above refers, or, where more than one day is concerned, from the earlier day.
- 67.7 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 benefit under the Act, 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 shall take 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.
- 67.8 Without prejudice to paragraph (7), 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.

## Section 68 - 75

### Claiming and the treatment of claims for council tax support purposes

#### 68.0 Making an application

- 68.1 In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines.
- 68.2 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.

- 68.3 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 the authority's scheme and to receive and deal on his behalf with any sums payable to him.
- 68.4 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).
- 68.5 Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4);



- (a) it may at any time revoke the appointment;
- (b) the person appointed may resign his office after having given 4 weeks notice in writing to the authority of his intention to do so;
- (c) any such appointment terminates when the authority is notified of the appointment of a person mentioned in sub-paragraph (2).

68.6 Anything required by the authority's scheme to be done by or to any person who is for the time being unable to act may be done by or to the persons mentioned in sub-paragraph (2) above or by or to the person appointed or treated as appointed under this paragraph and the receipt of any such person so appointed shall be a good discharge to the authority for any sum paid.

68.7 The authority must;

- (a) inform any person making an application of the duty imposed by paragraph 9(1)(a);
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the reduction or its amount.

69.0 **Procedure by which a person may apply for a reduction under the authority's scheme**

69.1 Paragraphs 2 to 7 apply to an application made under the authority's scheme.

69.2 An application may be made;

- (a) in writing,
- (b) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

- 69.3 (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.

69.4 (1) Where an application made in writing is defective because-

- (a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or
- (b) it was made in writing but not on the form approved for the purpose and the authority does not accept the application as being in a written form which is sufficient in the circumstances of the case having regard to the sufficiency of the written information and evidence,

the authority may, in a case to which sub-paragraph (a) applies, request the applicant to complete the defective application or, in the case to which sub-paragraph (b) applies, supply the applicant with the approved form or request further information and evidence.

- (2) An application made on a form provided by the authority is properly completed if it is completed in accordance with the instructions on the form, including any instructions to provide information and evidence in connection with the application.

69.5 (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.

69.6 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.

69.7 (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.

69.8 Notwithstanding other paragraphs within the section, the authority will determine the method by which claims are to be made as well as where claims should be sent or delivered.

- (1) Where an applicant;
- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period), the application is to be treated as made on the date determined in accordance with sub-paragraph
- (2) That date is the latest of;
- a. the first day from which the applicant had continuous good cause;
- b. the day six months before the date the application was made;
- c. the day six months before the date when the applicant requested that the application should include a past period.

#### 70.0 Date on which an application is made

- 70.1 (a) in a case where;
- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of Universal Credit has been made to the applicant or his partner, and
- (ii) the application 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;

- (b) in a case where;
- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of Universal Credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application 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 applicant is the former partner of a person who was, at the date of his death or their separation, entitled to a reduction under the authority's scheme, and
- (ii) the applicant makes an application for a reduction under that scheme within one month of the date of the death or the separation,
- the date of the death or the separation;
- (d) except where paragraph (c) 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 an applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
- (e) in any other case, the date on which an application is received at the designated office.

70.2 For the purposes only of sub-paragraph (1)(a) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under;

- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
  - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.

70.3 Where there is a defect in an 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 the application.

70.4 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.

70.5 The conditions are that-

- (a) where the authority receives 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 an application is not on the approved form or further information requested by the authority applies;
  - (i) the approved form sent to the applicant is received at the offices of the authority properly completed within one month of it having been sent to him; or, as the case may be;
  - (ii) the applicant supplies whatever information or evidence was requested within one month of the request; or,in either case, within such longer period as the authority may consider reasonable; or
- (c) where the authority has requested further information, the authority receives at its offices the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority considers reasonable.

70.6 Except in the case of an application made by a person treated as not being in Great Britain, where a person has not become liable for council tax to the authority but it is anticipated that he will become so liable within the period of 8 weeks (the relevant period), he may apply for a reduction under that authority's scheme at any time in that period in respect of that tax and, provided that liability arises within the relevant period, the authority must treat the application as having been made on the day on which the liability for the tax arises.

70.7 Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to a reduction under the authority's scheme in the week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to a reduction under its scheme for a period beginning not later than;

- (a) in the case of an application made by;
    - (i) a pensioner, or
    - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit,the seventeenth reduction week following the date on which the application is made, or
  - (b) in the case of an application made by a person who is not a pensioner, the thirteenth reduction week following the date on which the application is made,
- the authority may treat the application as made on a date in the week immediately preceding the first reduction week of that period of entitlement and award a reduction accordingly.

70.8 In this paragraph "appropriate DWP office" means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of

claims of income support, a job seekers allowance or an employment and support allowance.

**71.0 Submission of evidence electronically**

71.1 The authority may accept such evidence, documents and certificates to support the claim electronically where it feels that this would be acceptable given the nature of the claim.

**72.0 Use of telephone provided evidence**

72.1 The authority may accept such evidence to support the claim by telephone where it feels that this would be acceptable given the nature of the claim.

**73.0 Information and evidence**

73.1 Subject to sub-paragraph (3), a person who makes an application for a reduction under an authority's 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.

73.2 This sub-paragraph is satisfied in relation to a person if-

- (a) the application is accompanied by;
  - (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
  - (ii) information or evidence enabling the authority to ascertain the national insurance number that has been allocated to the person; or
- (b) the person has made an application for a national insurance number to be allocated to him and the application for the reduction is accompanied by;
  - (i) evidence of the application for a national insurance number to be so allocated;And
  - (ii) the information or evidence enabling it to be so allocated.

73.3 Sub-paragraph (2) does not apply;

- (a) in the case of a child or young person in respect of whom an application for a reduction is made;
- (b) to a person who;
  - (i) is a person treated as not being in Great Britain for the purposes of this scheme;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
  - (iii) has not previously been allocated a national insurance number.

73.4 Subject to sub-paragraph (5), a person who makes an application, or a person to whom a reduction under the authority's scheme has been awarded, must furnish such certificates, documents, information and evidence in connection with the application or the award, or any question arising out of the application or the award, as may reasonably be required by that authority in order to determine that person's entitlement to, or continuing entitlement to a reduction under its scheme and must do so within one month of the authority requiring him to do so or such longer period as the authority may consider reasonable.

73.5 Nothing in this paragraph requires a person who is a pensioner to furnish any certificates, documents, information or evidence relating to a payment to which sub-paragraph (7) applies.

73.6 Where the authority makes a request under sub-paragraph (4), it must;

- (a) inform the applicant or the person to whom a reduction under its scheme has been awarded of his duty under paragraph 9 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
- (b) without prejudice to the extent of the duty owed under paragraph 9, indicate to him either orally or by notice or by reference to some other document available to him on application and without

charge, the kind of change of circumstances which must be notified.

- 73.7 This sub-paragraph applies to any of the following payments;
- (a) a payment which is made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
  - (b) a payment which is disregarded under paragraph 24 of Schedule 5, other than a payment under the Independent Living Fund (2006);
  - (c) a payment which is disregarded under paragraph 58.9.
- 73.8 Where an applicant or a person to whom a reduction under the authority's 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.

#### **74.0 Amendment and withdrawal of application**

- 74.1 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.
- 74.2 Where the application was made by telephone the amendment may also be made by telephone.
- 74.3 Any application amended is to be treated as if it had been amended in the first instance.
- 74.4 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.
- 74.5 Where the application was made by telephone, the withdrawal may also be made by telephone.
- 74.6 Any notice of withdrawal given in accordance with sub-paragraph (4) or (5) has effect when it is received.
- 74.7 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.

#### **75.0 Duty to notify changes of circumstances**

- 75.1 Subject to sub-paragraphs (3), (6) and (7), an applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time;
- (a) between the making of an application and a decision being made on it, or
  - (b) after the decision is made (where the decision is that the applicant is entitled to a reduction under the authority's scheme) including at any time while the applicant is in receipt of such a reduction.
- 75.2 The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, a reduction under the authority's scheme (a "relevant change of circumstances") by giving notice to the authority;
- (a) in writing; or
  - (b) by telephone-
    - (i) where the authority has published a telephone number for that purpose 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 one calendar month beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

75.3 The duty imposed on a person by sub-paragraph (1) does not extend to notifying

- (a) changes in the amount of council tax payable to the authority;
- (b) changes in the age of the applicant or that of any member of his family;
- (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the reduction under the authority's scheme to which he is entitled, other than the cessation of that entitlement to the benefit.

75.4 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.

75.5 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.

75.6 The duty imposed on a person by sub-paragraph (1) includes in the case of a person falling within alternative maximum council tax support scheme, 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.

75.7 All changes in circumstances should be notified to the authority in writing (or by whatever format agreed by the authority) within one calendar month of the happening of the event or change in circumstance. This timescale may be extended at the discretion of the authority. Where such a change is not received within that timescale and where the change would increase the level of reduction payable, the effective date used by the authority will be the Monday of the week following the receipt of the notification.

## Sections 76 - 83

### Decisions, decision notices and awards of council tax support

#### 76.0 Decisions by the authority

76.1 The authority must make a decision on an application under its scheme within 14 days of paragraphs 4 and 7 and section 69 being satisfied, or as soon as reasonably practicable thereafter.

#### 77.0 Notification of decision

77.1 The authority must notify in writing any person affected by a decision made by it under its scheme;

- (a) in the case of a decision on an application, forthwith or as soon as reasonably practicable thereafter;
- (b) in any other case, within 14 days of that decision or as soon as reasonably practicable thereafter.

77.2 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement;

- (a) informing the person affected of the duty imposed by 75.1;
- (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) setting out the circumstances a change in which might affect entitlement to the reduction or its amount.

77.3 Where the decision is to award a reduction, the notification under sub-paragraph (1) must include a statement as to how that entitlement is to be discharged.

77.4 In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in the authority's scheme relating to the procedure for making an appeal.

77.5 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.

77.6 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.

77.7 For the purposes of this paragraph a person is to be treated as a person affected by a decision of the authority under its scheme where the rights, duties or obligations of that person are affected by that decision and the person falls within sub-paragraph (8).

77.8 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(3) 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 to act for a person unable to act.

## **78.0 Time and manner of granting council tax support**

78.1 Where a person is entitled to a reduction under this authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year ("the chargeable year"), the authority must discharge his entitlement;

- (a) by reducing, so far as possible, the amount of his liability to which regulation 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992 refers; or
- (b) where;
  - (i) such a reduction is not possible; or
  - (ii) such a reduction would be insufficient to discharge the entitlement to a reduction under the authority's scheme; or
  - (iii) the person entitled to the reduction is jointly and severally liable for the council tax and the authority determines that such a reduction would be appropriate, by making payment to him of the amount of reduction to which he is entitled, rounded where necessary to the nearest penny.

78.2 The authority must notify the person entitled to a reduction under this scheme of the amount of that reduction and how his entitlement is to be discharged in pursuance of paragraph (1).

78.3 In a case to which paragraph (1)(b) refers;

- (a) if the amount of the council tax for which he remains liable in respect of the chargeable year, after any reduction to which sub-paragraph (1)(a) refers has been made, is sufficient to enable his entitlement to a reduction under the authority's scheme in respect thereof to be discharged, upon the final instalment of that tax becoming due any outstanding reduction;
  - (i) must be paid to that person if he so requires; or
  - (ii) in any other case must (as the authority determines) either be repaid or credited against any subsequent liability of the person to make a payment in respect of the authority's council tax as it has effect for any subsequent year;
- (b) if that person has ceased to be liable for the authority's council tax and has discharged the liability for that tax, the outstanding balance (if any) of the reduction under the authority's scheme in respect thereof must be paid within 14 days or, if that is not reasonably practicable, as soon as practicable thereafter
- (c) in any other case, the reduction under the authority's scheme must be paid within 14 days of the receipt of the application at the offices of the authority or, if that is not reasonably practicable, as soon as practicable thereafter.

78.4 For the purposes of this paragraph "instalment" means any instalment of the authority's council tax to which regulation 19 of the Council Tax (Administration and Enforcement) Regulations 1992 refers (council tax payments).

#### **79.0 Persons to whom support is to be paid**

79.1 Subject to section 81 (payment on death) and paragraph (2), any payment of the amount of a reduction must be made to that person.

79.2 Where a person other than a person who is entitled to a reduction under this authority's scheme made the application for the reduction and that first person is a person acting pursuant to an appointment or is treated as having been so appointed, the amount of the reduction may be paid to that person.

#### **80.0 Shortfall in support**

80.1 Where, on the revision of a decision allowing a reduction under the authority's scheme to a person, it is determined that the amount allowed was less than the amount to which that person was entitled, the authority must either;

- (a) make good any shortfall in reduction which is due to that person, by reducing so far as possible the next and any subsequent payments he is liable to make in respect of the council tax of the authority as it has effect for the chargeable financial year until that shortfall is made good; or
- (b) where this is not possible or the person concerned so requests, pay the amount of any shortfall in reduction due to that person within 14 days of the revision of the decision being made or if that is not reasonably practicable, as soon as possible afterwards.

#### **81.0 Payment on the death of the person entitled**

81.1 Where the person entitled to any reduction under this scheme has died and it is not possible to award the support which is due in the form of a reduction of the council tax for which he was liable, the authority must make payment of the amount of the reduction to his executor or administrator in accordance with regulation 58(4) of the Council Tax (Administration and Enforcement) Regulations 1992.

#### **82.0 Offsetting**

82.1 Where a person has been allowed or paid a sum of council tax support under a decision which is subsequently revised or further revised, any sum allowed or paid in respect of a period covered by the subsequent decision shall be offset against arrears of entitlement under the subsequent decision



except to the extent that the sum exceeds the arrears and shall be treated as properly awarded or paid on account of them.

**83.0 Payment where there is joint and several liability**

83.1 Where;

- (a) a person is entitled to a reduction under the authority's scheme in respect of his liability for the authority's council tax as it has effect in respect of a chargeable financial year;
- (b) the person entitled to the reduction is jointly and severally liable for the council tax; and
- (c) the authority determines that discharging his entitlement by reducing the amount of his liability to which regulations 20(2) of the Council Tax (Administration and Enforcement) Regulations 1992(7) refers would be inappropriate,

it may make a payment to him of the amount of the reduction to which he is entitled, rounded where necessary to the nearest penny.

83.2 Subject to sub-paragraph (3) any payment made under sub-paragraph (1) must be made to the person who is entitled to the reduction.

83.3 Where a person other than a person who is entitled to a reduction under the authority's scheme made the application and that first person is a person acting pursuant to an appointment under paragraph 4(3) or is treated as having been so appointed by virtue of paragraph 4(4), the amount of the reduction may be paid to that person.

**Sections 84 - 87**

**Collection, holding and forwarding of information  
for council tax support purposes**

**84.0 Use of information from and to the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC)**

84.1 The authority will use information provided by the DWP and HMRC for the purposes of council tax support, council tax liability, billing, administration and enforcement as outlined within Schedule 2 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012.

84.2 Where required by the relevant department and where required by law, the authority will share information obtained for council tax support with the DWP or HMRC as appropriate.

**85.0 Collection of information**

85.1 The authority may receive and obtain information and evidence relating to claims for council tax support, the council may receive or obtain the information or evidence from-

- (a) persons making claims for council tax support;
- (b) other persons in connection with such claims;
- (c) other local authorities; or
- (d) central government departments including the DWP and HMRC

85.2 The authority may verify relevant information supplied to, or obtained.

**86.0 Recording and holding information**

86.1 The authority may

- (a) may make a record of such information; and

- (b) may hold that information, whether as supplied or obtained or recorded, for the purpose of forwarding it to the person or authority for the time being administering council tax support.

**87.0 Forwarding of information**

87.1 The authority may forward it to the person or authority for the time being administering claims to or awards of council tax support to which the relevant information relates, being

- (i) a local authority;
- (ii) a person providing services to a local authority; or
- (iii) a person authorised to exercise any function of a local authority relating to council tax support.

**Sections 88 - 91**

**Revisions, written statements, termination  
of council tax support**

**88.0 Persons affected by decisions**

88.1 A person is to be treated as a person affected by a relevant decision of the authority where that person is;

- a. an applicant;
- b. in the case of a person who is liable to make payments in respect of a dwelling and is unable for the time being to act
  - (i) a Deputy appointed by the Court of Protection with power to claim, or, as the case may be, receive benefit or support on his behalf,
  - (ii) in Scotland, a tutor, curator, judicial factor or other guardian acting or appointed in terms of law administering that person's estate, or
  - (iii) an attorney with a general power or a power to receive benefit or support appointed by the person liable to make those payments 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 this scheme;

**89.0 Revisions of decisions**

89.1 Subject to the provisions in this scheme, a relevant decision ('the original decision') may be revised or further revised by the authority, which made the decision where the person affected makes an application for a revision within;

- (i) one month of the date of notification of the original decision; or
- (ii) such extended time as the authority may allow.

89.2 The authority may revise or further revise that original decision at any time. Where further information is required from the person affected, the authority shall request such information and evidence as it feels is reasonable. Such information must be supplied within;

- (i) one month of the date of notification of the additional information; or
- (ii) such extended time as the authority may allow

**90.0 Written statements**

90.1 Subject to the provisions in the scheme, the authority may upon a written request issue a written statement to a person affected to further explain the decision of the authority in relation to council tax

support. The request must be received within one month of the date of notification being issued by the authority.

**91.0 Terminations**

91.1 The authority may terminate support in whole or in part the council tax support where it appears to the authority that an issue arises whether;

- a. the conditions for entitlement to council tax support are or were fulfilled; or
- b. a decision as to an award of such a support should be revised or superseded.

91.2 The authority may terminate, in whole or in part the council tax support where it appears to the authority that an issue arises whether;

- a. the conditions for entitlement to council tax support are or were fulfilled; or
- b. a decision as to an award of such a support should be revised or superseded.

Where the person fails to provide information to the authority as requested in relation to any matter relating to their liability for council tax.

**Section 92**

**Appeals against the authority's decisions**

**92.0 Procedure by which a person may make an appeal against certain decisions of the authority**

92.1 A person who is aggrieved by a decision of the authority, which affects;

- (a) the person's entitlement to a reduction under its scheme, or
  - (b) the amount of any reduction to which that person is entitled,
- may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

92.2 The authority must

- (a) consider the matter to which the notice relates;
- (b) notify the aggrieved person in writing;
  - (i) that the ground is not well founded, giving reasons for that belief; or
  - (ii) that steps have been taken to deal with the grievance, stating the steps taken.

92.3 Where, following notification under sub-paragraph (2)(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with sub-paragraph (2)(b) within two months of the service of his notice, he may appeal to the valuation tribunal under section 16 of the 1992 Act.

**Section 93**

**Procedure for applying for a discretionary reduction**

**93.0 Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act**

93.1 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 this scheme or
- (c) where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

93.2 Where;

- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
- (b) a person in that class would otherwise be entitled to a reduction under its scheme, that person's application for a reduction under the authority's scheme may also be treated as an application for a reduction under section 13A(1)(c).

## Section 94 - 100

### Electronic communication

#### 94.0 Interpretation

94.1 In this Part;

“**information**” includes an application, a certificate, notice or other evidence; and  
“**official computer system**” means a computer system maintained by or on behalf of an authority for sending, receiving, processing or storing of any information.

#### 95.0 Conditions for the use of electronic communication

95.1 The authority may use an electronic communication in connection with applications for, and awards of, reductions under its scheme.

95.2 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.

95.3 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.

95.4 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.

95.5 The third condition is that any information sent by means of an electronic communication is in a form approved for the purposes.

95.6 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.

95.7 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.

95.8 In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this section.

#### 96.0 Use of intermediaries

- 96.1 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 the matters.

**97.0 Effect of delivering information by means of electronic communication**

- 97.1 Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of an authority's scheme on the day the condition imposed;
- (a) by this section; and
  - (b) by or under an enactment,
- are satisfied.

- 97.2 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).

- 97.3 Information may 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.

**98.0 Proof of identity of sender or recipient of information**

- 98.1 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.

**99.0 Proof of delivery of information**

- 99.1 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this is presumed to have been the case where;
- (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
  - (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

- 99.2 If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this is presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

- 99.3 If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt is presumed to be that recorded on an official computer system.

**100.0 Proof of content of information**

- 100.1 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 is presumed to be that recorded on an official computer system.

## Section 101

### Counter fraud and compliance

#### 101.0 Counter fraud and compliance

101.1 In order to protect the finances of the authority and also in the interests of all council taxpayers, the authority will undertake such actions as allowed by law to:

- a. Prevent and detect fraudulent claims and actions in respect of council tax support;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases

101.2 The authority believes that is important to minimise the opportunity for fraud and;

- a. will implement rigorous procedures for the verification of claims for council tax support;
- b. will employ sufficient Officers to fulfil the authority's commitment to combat fraud;
- c. will actively tackle fraud where it occurs in accordance with this scheme;
- d. will co-operate with the Department for Work and Pensions (DWP), Her Majesty's Revenues and Customs and take part in joint working including prosecutions; and
- e. will in all cases seek to recover all outstanding council tax.

101.3 The authority shall put into place such administrative policies, procedures and processes as are necessary to ensure that the actions outlined within section 107.1 and 107.2 can be carried out successfully.

### Schedule 1

#### Sums to be disregarded in the calculation of earnings

1. Where the applicant is either single or one of a couple and a member of that couple is in employment, a maximum £10 weekly disregard will be applied to earnings.

### Schedule 2

#### Sums to be disregarded in the calculation of income other than earnings

1. Any amount paid by way of tax on income, which is to be taken into account under section 30 (calculation of income other than earnings).
2. Any payment made to the claim and 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, but only for 52 weeks beginning with the date of receipt of the payment.
4. 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) volunteer,  
if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under section 29.0 (notional income).

5. Any payment in respect of expenses arising out of the applicant's participation as a service user.
6. 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.
7. Where an applicant is on income support, an income-based job seeker's allowance or an income-related employment and support allowance the whole of his income.
8. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on income-based jobseeker's allowance, the whole of the applicant's income.
9. Where the applicant, or the person who was the partner of the applicant on 31 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 5 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.
10. Any disability living allowance or personal independence payment or AFIP
11. Any concessionary payment made to compensate for the non-payment of;
  - (a) any payment specified in paragraph 7 or 10;
  - (b) income support;
  - (c) an income-based jobseeker's allowance.
  - (d) an income-related employment and support allowance.
12. 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.
13. Any attendance allowance.
14. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.
15. 100% of any of the following, namely
  - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
  - (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;
  - (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) 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;
  - (h) an Armed Forces Compensation Scheme payment.

- 16.** Any payment made to the applicant by a child or young person or a non-dependant.
- 17.** (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(b) (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 Allowance Schemes)
  - (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
  - (c) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);
  - (d) in accordance with regulations made pursuant to section 14F of the Children Act 1989(c) (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.
- 18.** 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).
- 19.** Any payment made to the applicant or his partner for a person ('the person concerned'), who is not normally a member of the applicant's household but is temporarily in his care, by-
- (a) a health authority;
  - (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
  - (c) a voluntary organisation;
  - (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
  - (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
  - (f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006.
- 20.** 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).
- 21.** (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(e) 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.

- 22.** (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments;
- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
  - (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.
- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to-
- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (b); and
  - (b) meet any amount due by way of premiums on-
    - (i) that policy; or
    - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).
- 32.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.
- 32.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).
- 34.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).
- 35.** (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 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 the 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 support payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.
- (7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.
- 36.** Any housing benefit or the housing element of Universal Credit. Where the assessment of Universal Credit includes a housing element, this will be deducted from the amount of the Universal Credit award. The remaining award amount will then be treated as income.
- 38.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 38.** (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.
- (2) In paragraph (1)

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'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.

39. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
40. (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.
41. Any payment of child benefit.

### Schedule 3

#### Disabled child additional disregard

1. An additional disregard of £65 per week will be applied to the total income of the claimant and partner(s) for each disabled child or young person whom the claimant or a partner is responsible and who is a member of the claimant's household. The child or young person -
- (i) is in receipt of disability living allowance or is no longer in receipt of such allowance because they are a patient, provided that that the child or young person continues to be a member of the family, or
  - (ii) is blind or treated as blind, or
  - (iii) is a child or young person in respect of whom section 145A of the Act (entitlement to child benefit 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, or
  - (iv) is a young person who is in receipt of personal independence payment or who would, but for payment ceasing by virtue of regulations made under section 86(1) (hospital in-patients) of the 2012 Act be so in receipt, provided that the young person continues to be a member of the family, or
  - (v) is a young person who is in receipt of armed forces independence payment.

### Schedule 4

#### Capital to be disregarded

1. 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, in particular 5, in Scotland, any croft land on which the dwelling is situated; but, notwithstanding section 15 (calculation of income and capital of members of applicant's family and of polygamous marriage), only one dwelling shall be disregarded under this paragraph.
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. 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.
5. 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.
6. Any premises occupied in whole or in part-
  - (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
  - (b) by the former partner of the applicant as his home; but this provision shall not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.
7. Where the applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his capital.
8. 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.
9. 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.
10.
  - (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 claim for council tax support 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.
11.
  - (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 7, 9 or 10 of Schedule 4;
    - (b) an income-related benefit under Part 7 of the Act;

- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit
- (f) an income-related employment and support allowance  
but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.
- (g) Universal Credit regulations 2013(b)

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as 'the relevant sum') and is

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations; and
  - (b) received by the applicant in full on or after 14 October 2001;
- sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax support, for the remainder of that award if that is a longer period.

(2) For the purposes of sub-paragraph (2), 'the award of council tax support' 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.

**12.** 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 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, replacements or improvement.

**13.** Any sum-

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 or section 338(1) of the Housing (Scotland) Act 1987 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.

**14.** 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 council tax support or to increase the amount of that support.

- i. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

**15.** Where the funds of a trust are derived from a payment made in consequence of a 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.

- 16.** (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).
- 17.** The value of the right to receive any income under a life interest or from a life rent.
- 18.** The surrender value of any policy of life insurance.
- 19.** Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.
- 20.** 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, of 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).
- 21.** (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.
- 22.** Any social fund payment made pursuant to Part 8 of the Act.
- 23.** 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.
- 24.** Any capital which, by virtue of sections 28 or 48 (capital treated as income, treatment of student loans) is to be treated as income.
- 25.** 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.
- 26.** (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 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 benefits 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.
- (2) 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 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 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.
- (4) 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 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.

- (6) In the case of a person to whom or for whose support 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.
- (7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.
- 27.** (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.
- 28.** 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.
- 29.** 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.
- 30.** 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.
- 31.** Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 32.** The value of the right to receive an occupational or personal pension.
- 33.** The value of any funds held under a personal pension scheme.
- 34.** 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.
- 35.** 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).
- 36.** Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.
- 37.** Any payment in consequence of a reduction of council tax under section 13 or, as the case may be, section 80 of the Local Government Finance Act 1992 (reduction of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.
- 38.** 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.

- 39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.
- 40.** (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 the receipt of the payment or repayment.
- 41.** 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.
- 42.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).
- 43.** 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.
- 44.** 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.
- 45.** 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.
- 46.** (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.

**47.** 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.

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

**49.** 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.

**50.** (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.

**51.** (1) Any payment;

- (a) by way of an education maintenance allowance made pursuant to-
  - (i) regulations made under section 518 of the Education Act 1996;
  - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
  - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to;
  - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
  - (ii) regulations made under section 181 of that Act;or 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).

**52.** 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.

- 53.** 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.
- 54.** Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1 February 2001 in consequence of the imprisonment or interment of-
- (a) the applicant;
  - (b) the applicant's partner;
  - (c) the applicant's deceased spouse or deceased civil partner; or
  - (d) the applicant's partner's deceased spouse or deceased civil partner;
- by the Japanese during the Second World War, £10,000.
- 55.** (1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or a member of an applicant's family who is
- (a) a diagnosed person;
  - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (c) a parent of a diagnosed person, a person acting in place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
- (2) Where a trust payment is made to;
- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending-
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person-
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 20,whichever is 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 subparagraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that subparagraph shall apply 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 subparagraph shall apply for the period beginning on the date on which that payment is made and ending-
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person
    - (aa) ceases receiving full-time education; or
    - (bb) attainswhichever is the latest.

(5) In this paragraph, a reference to a person-

- (a) being the diagnosed person's partner;
  - (b) being a member of a diagnosed person's family;
  - (c) acting in place of the diagnosed person's parents,
- at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph-

- 'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jacob 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-Jacob disease for the benefit of persons eligible for payments in accordance with its provisions;
- 'trust payment' means a payment under a relevant trust.

**56.** 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 died,
- during the Second World War.

**57.** (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.

**58.** 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 section 12A to 12D of the National Health Service Act 2006 (direct payments for health care).

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

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

**61.** Any payments to an applicant made under section 49 of the Children and Families Act 2014(a) (personal budgets and direct payments)

## Summary of Proposed Council Tax Support Scheme 2019-20

The proposed council tax support scheme from 1 April 2019 for working age people will be based on Income bands.

The scheme will apply to working age people only who currently receive council tax support or apply in the future for help to have their council tax discounted. There will be no protection for working age people and the new scheme will apply without exception from 1 April 2019.

It is important to note that changes to the council tax support scheme will not affect pensioners. These people are protected and their council tax support will continue to be awarded on the basis of the scheme prescribed by Central Government.

The following income bands will apply and the percentage of council tax support awarded will be 100%, 80%, 60%, 40% or 20% of the maximum eligible council tax.

There are different bands for single claimants, lone parents, couples and for people with children as illustrated below.

Income Band	Single person	Couple	Lone parent with children	Couple with children	Maximum percentage entitlement
	Income £				
Band 1	000.00 to 075	000.00 to 115	000.00 to 150	000.00 to 200	100%
Band 2	075.01 to 100	115.01 to 150	150.01 to 175	200.01 to 250	80%
Band 3	100.01 to 125	150.01 to 200	175.01 to 225	250.01 to 300	60%
Band 4	125.01 to 150	200.01 to 250	225.01 to 275	300.01 to 350	40%
Band 5	150.01 to 175	250.01 to 300	275.01 to 325	350.01 to 400	20%

Claimants who receive Income Support, Job Seeker's Allowance (Income Based) or Employment and Support Allowance (Income Related) will fall into band 1 and will be entitled to up to 100% council tax support.

The income will be calculated, net of any allowable disregards and the if the income calculated falls into one of the following income bands, council tax support will be payable. If the net income exceeds the maximum income in band 5 then no council tax support will be payable.

Under the current council tax support scheme if a person has an income change of more than 5p a week their entitlement to support will change by just 1p per week. With the proposed scheme, if the income change results in the income remaining within a band, then no recalculation of the council tax support will take place.

For example, if a single person reports that their weekly income has increased from £112 to £123 per week, they will remain in Band 3 and the discount they will continue to receive is 60%.

### Qualifying for Council tax support

A person must have a council tax liability to be able to claim council tax support and the property must be occupied by the tax payer. Council tax support is a council tax discount

and if awarded it will reduce a person's council tax payments. The level of discount awarded is based on the income and capital the claimant and partner has, whether they have dependent children or other grown ups living in the household, referred to as non dependants. Other factors such as certain expenses to assist with childcare payments, disabilities and whether a person falls into a group considered to require more support will also be taken into consideration.

### **Eligible Council Tax**

The eligible council tax used in the calculation of council tax support will be the net amount payable, taking into account discounts already awarded, for a dwelling that is occupied.

The only exception to this is if the tax payer lives in a property that has an F, G or H banding. For people claiming council tax support, their maximum eligible council tax will be restricted to a band E and the maximum council tax support they can receive is 100% of the band E charge.

### **Capital limit**

If a single person or couple claiming council tax support have over £6,000 in combined capital there will be no entitlement to council tax support and the full amount of council tax will be payable. There are no exceptions to this rule. An assumed income from savings will not be applied to capital less than £6,000.

### **Non dependant deductions**

A non dependant is a person living in the council tax support claimant's home but they are not stated as a liable person on the council tax bill. They are normally a grown up child or an elderly relative living with the claimant. Deductions will normally be made from the eligible council tax for each non dependant living in the household. The deductions are based on the non dependant's gross income and whether they are working. The deductions and earnings bands are increased from 1 April each year.

A non dependant deduction will not be made if the claimant or their partner receives one of the following incomes:

- Attendance Allowance or Constant Attendance Allowance
- The daily living component of Personal Independence Payment
- The care component of Disability Living Allowance
- An armed forces independence payment

Or if the claimant or partner is severely sight impaired, blind or has recently regained sight.

### **Earned income disregards**

A maximum weekly disregard of £10 will apply to the combined earnings of the claimant and partner. If both a claimant and their partner are working the earnings disregard will be £10 in total and will not be awarded per person.

## **Income disregards – child benefit**

Child benefit for all children will be disregarded in full and will not be used in the income calculation.

## **Income disregards – maintenance in respect of a child**

Maintenance payments received in respect of a child or children will be disregarded in full and will not be used in the income calculation, subject to qualifying conditions.

## **Income disregards - Housing Element (Universal Credit)**

The housing costs element of a person's Universal Credit award will be disregarded in full. This is the exception and all other elements of Universal Credit will be taken fully into account as income.

## **Income disregards – other income**

Under this scheme, as part of our ongoing commitment to support disabled people, the following incomes will continue to be disregarded and will not be used as income in the calculation of council tax support:

- Personal Independence Payment
- Attendance Allowance
- Constant Attendance Allowance
- Disability Living Allowance
- War Disablement Pension
- War Widow's Pension
- Christmas bonus paid by DWP

## **Other disregards - childcare**

To support incentives to work for those working over 16 hours, a weekly childcare disregard will be applied to earnings of up to a maximum of £175, where child care is paid for one child, or up to a maximum of £300 where childcare is paid for more than one child, subject to further qualifying conditions.

## **Other disregards - disabled child or children**

An additional income disregard of £65 per week will be applied to household income for each child who:

- Is severely sight impaired, blind or has recently regained their sight, or
- Receives Personal Independence Payment or Disability Living Allowance

## **Second Adult Rebate**

Second adult rebate was based on the income of other adults living in the property and not that of the claimant. All second adult rebate entitlement will end on 31 March 2019 and this will no longer be able to be claimed from 1 April 2019. The claimant will still be able to receive council tax support but this will be based on their personal income and any award may be subject to non dependant deductions.

### **Absences abroad for up to four weeks**

Council tax support will be paid during a temporary absence abroad providing that the period of the absence does not exceed four weeks. If the planned period of absence is greater than four weeks the claim for council tax support will end from the date of departure and the claimant will have to claim again following the return to their home address.

### **Backdating claims**

A claim for council tax support can be backdated for a maximum period of six months from the date of the claim if the claimant can demonstrate a good reason for not having claimed sooner. The claimant must provide a written request for backdated council tax support and provide full reasons for the delay in claiming.

### **Discretionary Hardship Scheme**

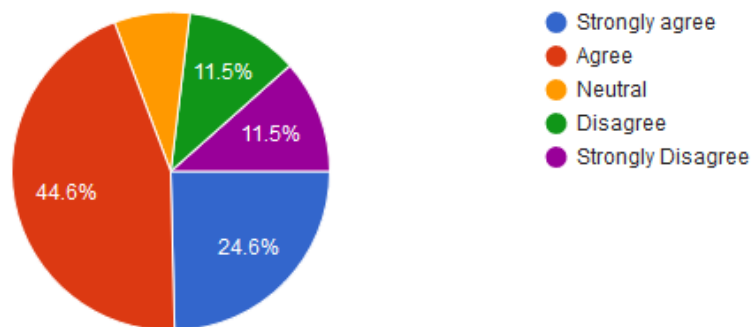
The scheme may result in some claimants being adversely affected which may lead to hardship. As there is a need to protect the most vulnerable households, the Discretionary Hardship Scheme which falls within the local council tax support scheme, is designed to provide additional financial support to those tax payers who are facing either exceptional hardship or extraordinary circumstances. Subject to conditions a tax payer could be awarded a payment under the Council's Discretionary Hardship Scheme. An application will need to be made and it will be considered in accordance with the Council's policy.



### Council Tax Support Consultation Analysis of Responses

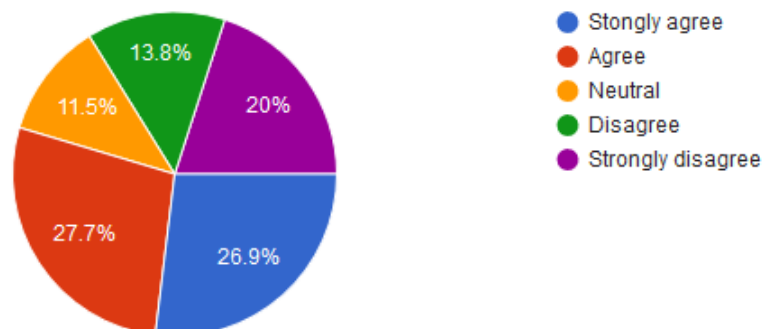
The council is considering an income banded scheme which would be a simple flat rate percentage discount awarded depending on what income band the person's total weekly income falls into. Do you agree that this would be a fair way to help people on a low income?

130 responses



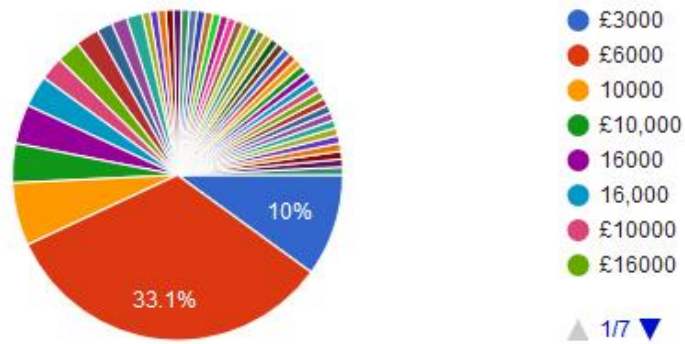
Currently council tax payers can have capital of up to £16,000 and still receive council tax support. Do you think that the capital limit should be reduced?

130 responses



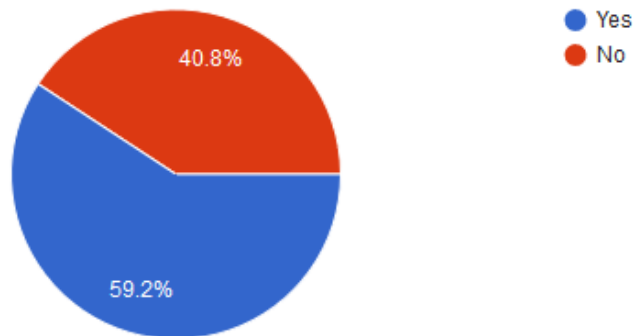
If you think the capital limit should be reduced what do you think the new limit should be?

130 responses



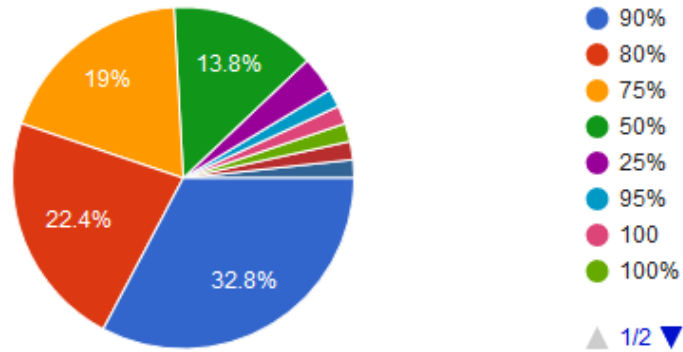
Currently a person can receive 100% council tax support and do not have to make any contribution towards their council tax payments. Do you think that people should continue to receive 100% help towards their council tax?

130 responses



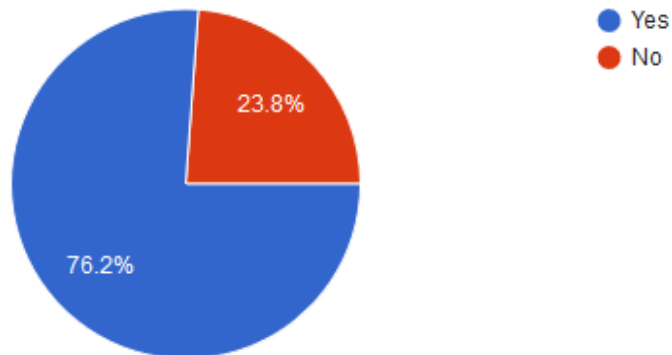
If you have answered no, what do you think the maximum amount of help should be?

58 responses



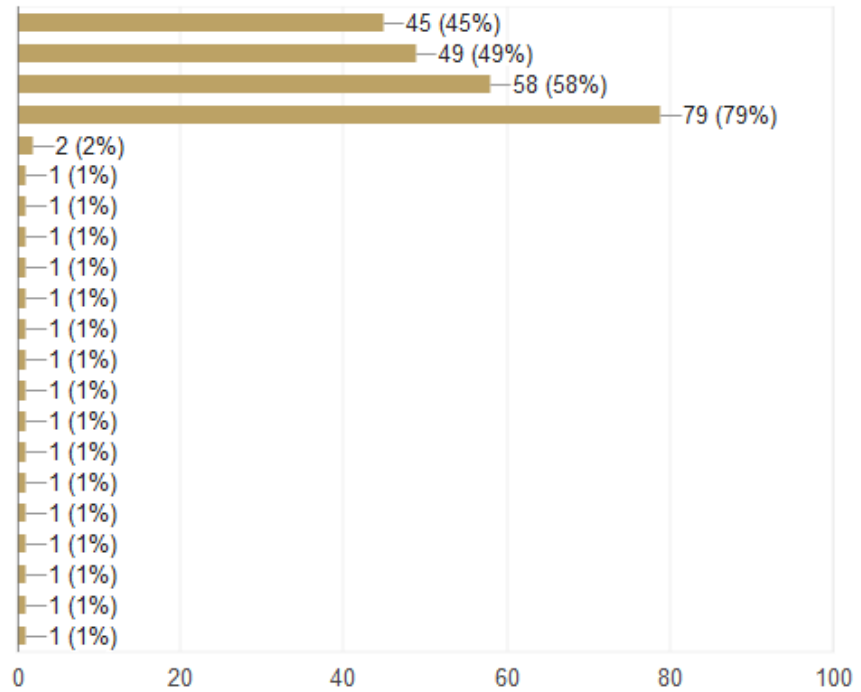
Should the council provide protection for some groups from any changes made to the council tax support scheme from April 2019?

130 responses



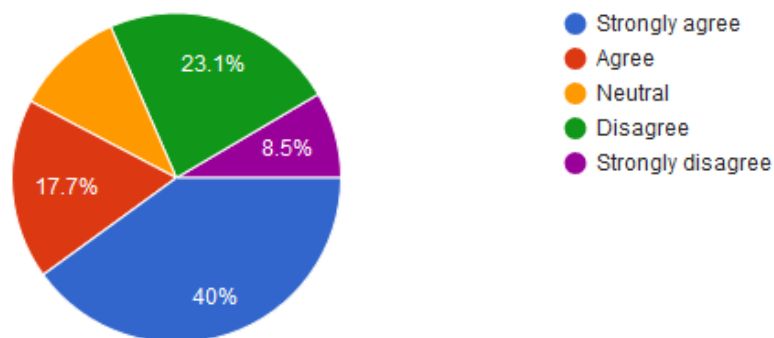
If you have answered yes, please tick which group(s) you think should receive protection.

100 responses



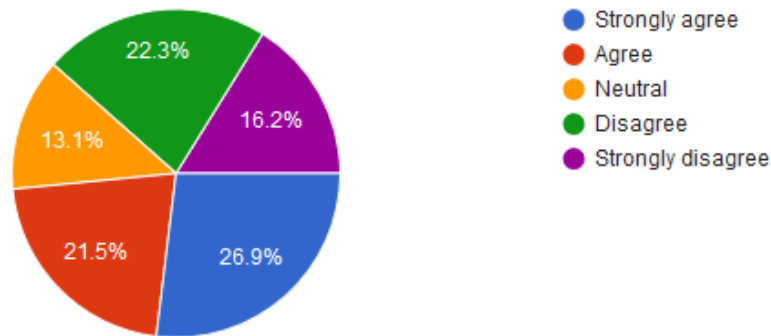
The current scheme ignores 100% of child benefit income. Do you agree that this income should be ignored for the purposes of calculating a person's weekly income?

130 responses



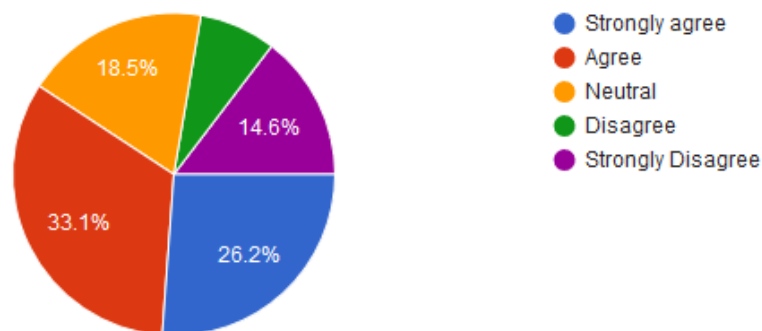
The current scheme ignores 100% of child maintenance payments received by the person. Do you agree that this income should be ignored for the purposes of calculating a person's weekly income?

130 responses



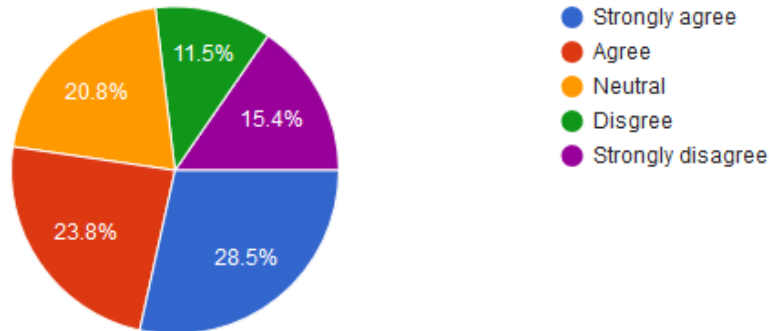
A non-dependant is a person living as part of someone's home but is not responsible for the household bills, like an elderly relative or a grown up son or daughter. Do you think that the non-dependant should make a contribution to the running of the household which results in the council tax payer receiving less council tax support?

130 responses



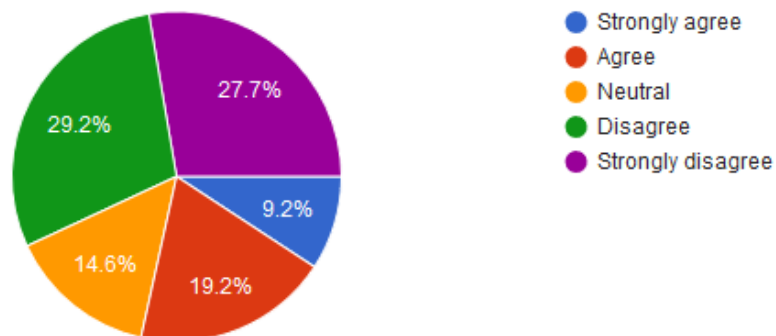
Currently council tax support is available to residents in Cheltenham regardless of the council tax band their property is in. Do you agree that there should be a restriction placed on the council tax support awarded to those in higher bands F, G and H? For example: the maximum council tax support payable to someone in a band G property would be based on the charge for a band E property.

130 responses



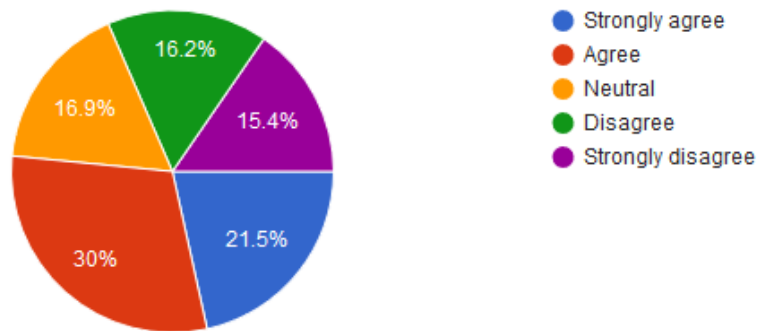
Currently a person can have their new council tax support claim backdated for a period of 6 months if they provide a good reason. Do you agree that this period should be shortened to one calendar month?

130 responses



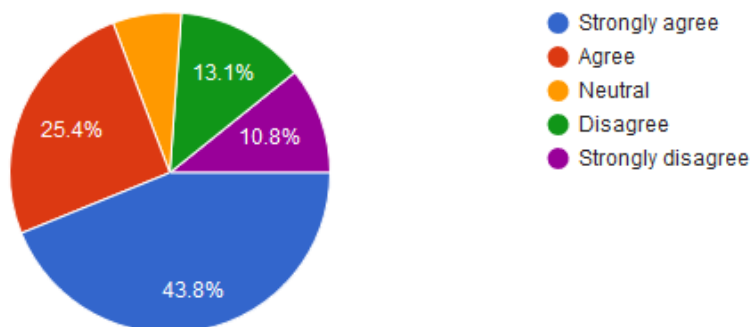
If a single applicant does not qualify for council tax support themselves, there is a provision for them to claim something called Second Adult Rebate. This can be awarded up to 25% of the council tax liability and is based on other people's income in household, for example an elderly relative or grown up children still living in the applicant's home. As Second Adult Rebate is not based on the council tax payer's ability to pay do you agree that this should be discontinued?

130 responses



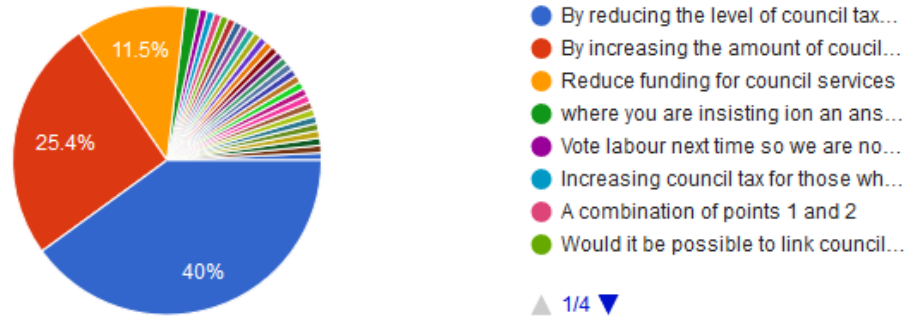
The current council tax support scheme allows people to be temporarily absent from their homes, living elsewhere in the world and still receive help towards their council tax. Do you agree that the period for which a person can be absent from their home should be reduced to 4 weeks for them to still qualify for help?

130 responses



### How do you think the council should continue to fund its council tax support scheme from April 2019?

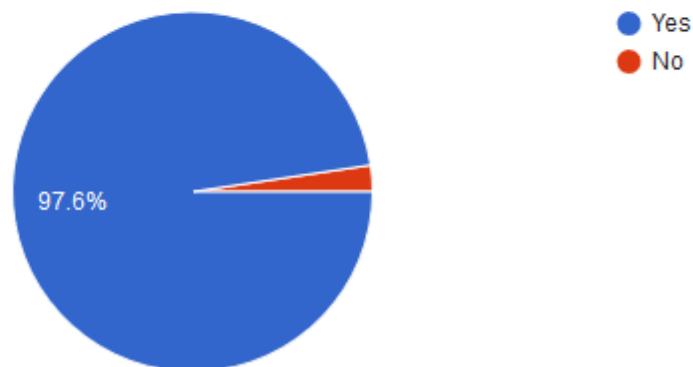
130 responses



### Equalities questions - About you

#### Are you a resident of the Cheltenham Borough area?

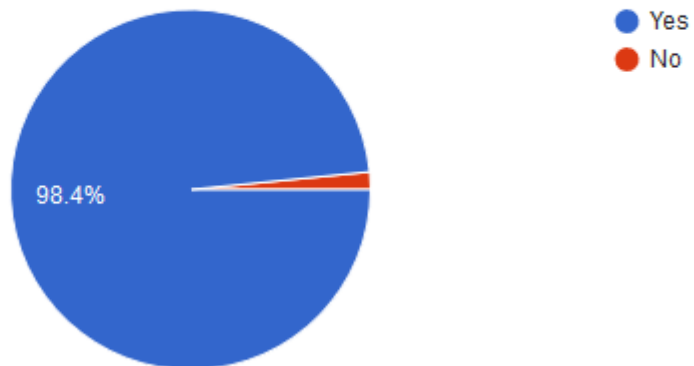
127 responses





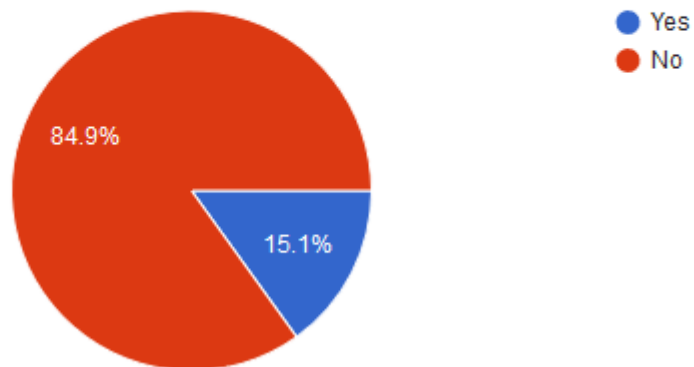
### Are you registered for council tax?

127 responses



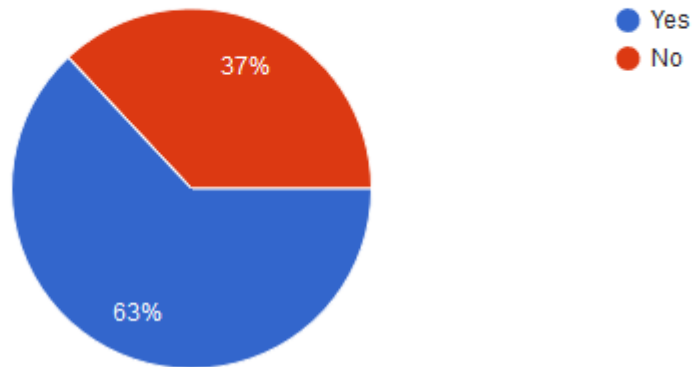
### Do you currently receive council tax support?

126 responses



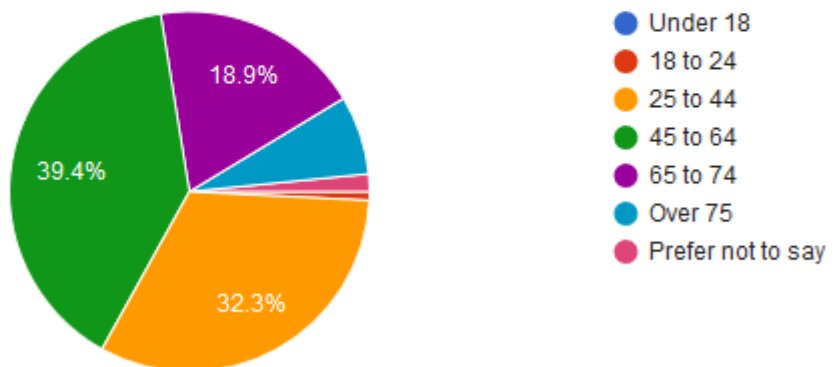
### Are you in employment?

127 responses



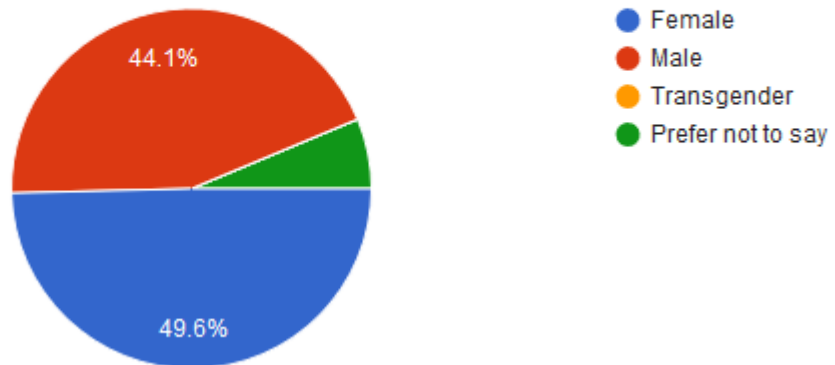
### What is your age group?

127 responses



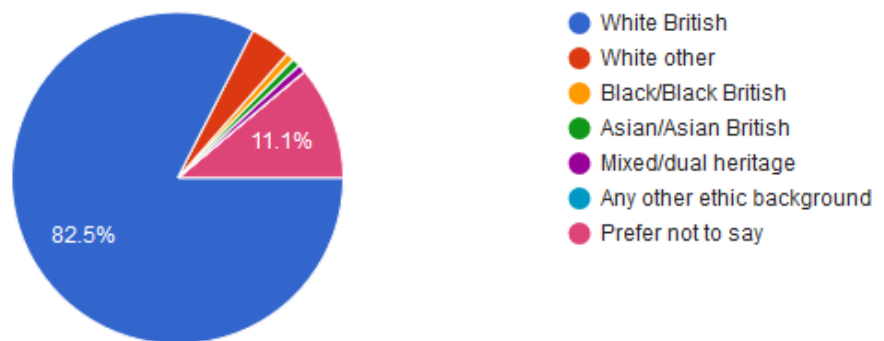
### What is your gender?

127 responses



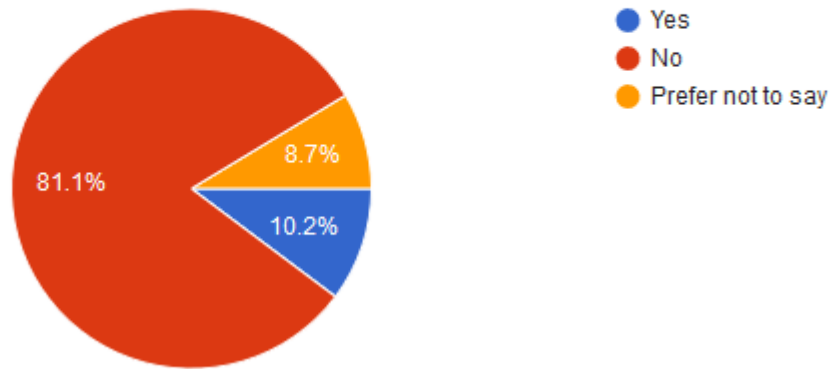
### What is your ethnicity?

126 responses



## Are you disabled?

127 responses





26 Church Street, Church Piece, Charlton Kings, Cheltenham, GL53 8AR

Clerk: Mrs J Noles Tel: 01242 250087 email: [clerk@charltonkingsparishcouncil.gov.uk](mailto:clerk@charltonkingsparishcouncil.gov.uk)

23rd August 2018  
Mr David Wyatt  
Deputy Revenues and Benefits Manager  
Cheltenham Borough Council  
Municipal Offices Promenade Cheltenham GL50 9SA

Dear Mr Wyatt,

**Council Tax Support scheme 2019-20 - consultation survey**

The consultation document on the Council Tax Support scheme 2019-20, which was sent to us on 25<sup>th</sup> July 2018, was considered at a meeting of the Charlton Kings Parish Council on 20<sup>th</sup> August 2018. I have been asked to write to you following the meeting to communicate the Parish Council's agreed comments on the Council Tax Support scheme proposals and these are set out below.

We welcome the opportunity to comment on possible changes to the current Cheltenham Borough Council scheme for council tax support, which would affect many parish residents. We recognise the need to reduce extremely cost-ineffective administration associated with the current scheme but, hold that an important principle should be that administrative savings should be used to ensure that no-one currently in receipt of direct, personal, support should be disadvantaged by any change.

In response to the examples of possible options for change, we make the following comments:

**Example 1 - Introduce a scheme where all working age applicants pay a percentage of the charge:** We do not support this option which we believe would result in significant hardship and, also, that collecting increased payments could be cost-ineffective.

**Example 2 – Introduce an income banded scheme:** We consider that this concept is worth further exploration, but the way in which the support would be set within each band would be crucial if many were not to be disadvantaged. Essentially, this would require the support level to be set at the band minimum, i.e. at the highest current level.

It would have been helpful to have known, and should be made explicit:

- The number of income bands and their income values •
- Whether the bands are set on a weekly/monthly/annual income, or some other period
- If the bands would be increased each year in line with an index of inflation.

Similarly, in justification of proposing such a significant change, it should be made clear how many in-year assessments are currently being carried out and, what reduction on this number is anticipated should this proposal be introduced.

**Example 3 – Introduce a capital limit of £6,000:** We do not consider that this is an acceptable option and is not linked to administrative savings.

**Example 4 – Introduce changes to the income that is disregarded in the calculation:** We do not support this option, which would have a direct impact on children's well-being.

**Example 5 – Discontinue the payment of Second Adult Rebate:** We would not, in principle, be opposed to this option which currently seems to introduce an unnecessarily complicated measure of indirect support to a very small number of people at high administrative cost. However, even though it applies to only a small number of families, there is, presumably a justification for currently offering this rebate, so is it considered that withdrawal would impact significantly on these families? Is this measure likely to produce a re-cyclable sum of sufficient size to warrant its consideration?

We hope that our comments will be a helpful contribution to your consultation and look forward to receiving feedback on future developments in relation to the Council Tax Support Scheme in due course.

With good wishes,

Joanna Noles

Clerk & RFO to the Parish Council  
Charlton Kings Parish Council  
26 Church Street  
Charlton Kings  
Cheltenham GL53 8AR

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## Cheltenham Labour Party

### Response to the Borough Council Consultation on changes to Council Tax exemptions

Cheltenham Labour Party is opposed to any changes to the current scheme of Council Tax exemptions operated by Cheltenham Borough Council as proposed in the consultation document.

We would support a scheme which reduced the administrative burden of the process providing it could be conclusively demonstrated that the poorest families in our town were not disadvantaged. The current proposals fail to demonstrate that, and the proposals would result in households in low income bands paying increased council tax. These proposals effectively redistribute the burden of local taxation from the most affluent to the least affluent in Cheltenham.

In making these proposals the Borough Council does not appear to have carried out an equalities impact assessment in line with the Public Sector Equalities Duty under Section 149 of the Equalities Act 2010. Such an assessment is essential if the Borough Council is to meet its obligation to treat different groups in our town in an equitable and fair manner. There is no evidence that these proposals will meet that standard.

The current proposals fail to consider the imposition of the Government's Universal Credit scheme on households in Cheltenham. Any changes to the exemption scheme should assess households in line with Universal Credit assessments to prevent either unnecessary overpayment by families, or underpayment which would need to be reclaimed from families with no or little savings with which to meet a debt which is not of their own making.

Most households affected by the proposals in this consultation document live in a state of genuine poverty. Any increased council tax demand on their current low-income levels will have a very significant impact on their household budget. These families will prioritise feeding and clothing their families and heating their homes rather than paying increased council tax demands or be driven into debt. As a result, the administrative burden and cost to the Borough Council will be increased through having to take families to court to seek payment of Council Tax. Many of those families will not have the resources to meet the payments required. As a result, the Borough Council may find itself incurring additional expenditure in a needless pursuit of impoverished households through the courts.

Malcolm Bride

Chair, Cheltenham Labour Party

Basement Office  
67 Clarence Street,  
Cheltenham  
GL50 3LB

03.09.2018

We have reviewed your proposals for the Local Council Tax Support Scheme for 2019/20 and we are supportive of your proposals.

We agree that an income banded scheme is a fair way to help people on low income and we think that people should continue to receive 100% help towards their council tax where applicable.

We do not think that you should reduce the capital limit of £16k.

I hope that helps.

Regards

Peter

**Peter Skelton**

**Chief Finance Officer**

Finance Department

Gloucestershire Constabulary and Office of the Police and Crime Commissioner

Police Headquarters | No.1 Waterwells | Waterwells Drive | Quedgeley |

Gloucestershire | GL2 2AN

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[www.gloucestershire.police.uk](http://www.gloucestershire.police.uk) | [Twitter page](#) | [Facebook page](#)



# **Cheltenham Borough Council**

## **Council Tax Section 13A Policy**

### **(Discretionary Hardship Relief)**

#### **1 Introduction**

- 1.1 Section 13A(1)(c) of the Local Government Finance Act 1992, as amended by Section 10 of the Local Government Finance Act 2012, gives the council additional discretionary powers to reduce the amount of Council Tax payable for individuals, or for classes of council taxpayer. This includes the power to reduce the amount payable to nil.
- 1.2 This policy sets out the Council's approach to the awarding of discretionary reductions to individuals in respect of a council tax liability. The policy allows the Council to reduce the Council Tax payable on the grounds of hardship or where there are exceptional circumstances. It has been revised due to the introduction of a council tax support banded scheme from 1 April 2019. The Council is required to make a council tax support scheme which provides financial support, through a discount, to those with low incomes who are eligible. The income banded scheme has been designed to take into account the financial and other specific circumstances of individuals. This policy provides further assistance to council tax payers who are facing extreme hardship.
- 1.3 A reduction awarded under this policy is wholly discretionary and the only requirement is that the Council must consider each case on its own individual merits.
- 1.4 The full cost of awarding any Section 13A reductions must be met by Cheltenham Borough Council from its General Fund. The Council must therefore balance the need of the individual council payers requiring support against the interests of the council tax payers generally. Arrangements have been made with Gloucestershire County Council for them to contribute to reductions awarded under this policy to those affected by the changes to the local council tax support scheme.

#### **2 Eligibility**

- 2.1 Relief under this policy will only be granted in exceptional circumstances, which includes severe financial hardship or where the council tax payer has been adversely affected by a natural disaster or major event which renders the dwelling uninhabitable, eg flooding.
- 2.2 The applicant must be liable for council tax at the property in respect of which the application is made.
- 2.3 Reductions under this scheme will apply for a temporary period only. They will only be awarded in respect of the financial year in which the application is made and will apply for that financial year only.
- 2.4 Eligibility for all other discounts, exemptions and council tax support will be explored before relief under this policy is considered.

- 2.5 Where the application is due to severe financial hardship the applicant may be expected to accept personal budgeting support from an independent advice agency to enable them to manage their finances more effectively.
- 2.6 From time to time, national schemes may be introduced by Government in response to events or natural disasters, such as flooding. In these cases funding is normally met in full by Government and such schemes will be administered in accordance with instructions and guidance set by Government.
- 2.7 Reduction made under this scheme reduce council tax liability and will not be a cash payment.

### **3. Consideration of Applications**

- 3.1 Each application will be considered on its own merits and have regard to the factors outlined below:

- The tax payer can demonstrate that their personal circumstances are exceptional and warrant an award being made
- The tax payer is able to demonstrate that all reasonable steps have been taken to meet their full council tax liability including alternative means of financial support
- The tax payer has taken all reasonable steps to avoid or improve their situation
- The tax payer is able to satisfy the Council that they are not able to meet their full council tax liability or part of their liability.
- The tax payer can demonstrate that their current circumstances are unlikely to improve during the period in respect of which the application is made
- Enforced payment of their full council tax liability would result in exceptional hardship as a result of insufficient funds

- 3.2 Relief under this policy will not be awarded in the following circumstances:

- Where the full council tax liability is being met in full by council tax support
- For any other reason, other than to reduce the council tax liability
- Where the council considers that there are unnecessary expenses and debts and that the applicant has not taken reasonable steps to reduce these
- Where the council tax payer has assets that could reasonably be used to pay the council tax. This includes payment being made from proceeds of sale
- To cover any increase in the council tax payable due to the failure by the applicant to notify changes in their circumstances in a timely manner or where the applicant has failed to act correctly or honestly
- As a means to reduce or remit council tax which can be recovered by the various enforcement methods available to the Council
- Where a council tax or council tax support penalty has been imposed at any time during the financial year where relief is being requested
- To cover court costs or administration fees

## **4. How to apply**

- 4.1 The person(s) liable for council tax, their appointee or representative, will be required to submit an application for discretionary hardship relief to the Council, using the form provided. The application form is available on the Council's website and paper copies will also be made available on request.
- 4.2 The application form must be fully completed and submitted with any supporting information or evidence.
- 4.3 If an applicant needs advice and support in order to complete the claim form or requires an element of personal budgeting and support, they will be referred to one of the Council's partners, CCP, who can offer the support relevant to their needs.
- 4.4 The applicant must provide details of any special circumstances and/or exceptional hardship being experienced and provide evidence to support their application. Evidence required may include, but is not limited to:
- Full details of income and expenditure
  - Full details of any capital and other assets
  - Confirmation of outgoings including debt repayments, outstanding loans and credit card debt
  - Details of personal illness confirmed by a GP
- 4.5 Failure to provide any supporting evidence and information that is requested will lead to the discretionary hardship relief claim being refused unless there are mitigating circumstances which led to that failure. There may be some occasions where relief can be considered based on information already available to officers in the Revenues and Benefits team.

## **5. Notification of decisions**

- 5.1 The Council will aim consider the application and notify the customer of the outcome within 21 days of receipt of the claim and all supporting documentation.
- 5.2 If the claim for relief is successful, the Council's decision letter will include the following:
- The reason for the award
  - The amount awarded
  - The period of the award
  - The applicant's duty to report any changes in circumstances
  - Any conditions associated with the award
  - Details of the right of review

If a claim is unsuccessful, the Council's decision letter will include an explanation of how the decision has been reached and details of the right to request a review.

## **6. Period of Award**

- 6.1 A discretionary hardship relief award will not normally be used to provide long term support for individuals. They will be used to provide short term support to allow people the time to resolve their current financial difficulties and to move to a position which is financially sustainable for them in the longer term.

6.2 The length of time over which an award is made is at the discretion of the Council but will not normally exceed a six month period.

6.3 The applicant will be notified of the period of the award and any specific end date.

## **7. Decision Making and Disputes**

7.1 Applications will be reviewed by a Senior Officer in the Revenues and Benefits team and decisions on awards will be made by the Head of Revenues and Benefits.

7.2 Discretionary hardship relief awards are administered in accordance with the Local Government Finance Act 1992 and are subject to a statutory appeals process. If the applicant disagrees with a discretionary hardship relief decision they must put this in writing giving their reasons. This should normally be received by Cheltenham Borough Council within a month of the date of the decision although more time can be given in exceptional circumstances.

7.3 Where possible the Council will try to resolve the matter by explaining the reasons for the decision to the applicant or their representative, either verbally or in writing. If a decision is formally challenged a reconsideration will be made by the Executive Director Finance and Assets in consultation with the Cabinet Member Finance. The applicant will then be notified of the reconsideration which will clearly state the reasons for the decision made.

7.4 If the applicant remains dissatisfied with the decision, an appeal may be made to the independent Valuation Tribunal. Further details on this process will be notified to the applicant with the outcome of any previous review of the decision.

## **8. Equalities**

8.1 The Council is committed to equality and the fair application of the policy, ensuring that people receive fair outcomes in the standard of service they receive from the Council and equality of access to Council services. This policy is fully inclusive and could support all members of the community, regardless of their race, gender, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.

## **9. Fraud**

9.1 The Council takes fraud seriously and has adopted a zero tolerance approach. All allegations of fraud will be investigated; should a person make a false statement or provide incorrect evidence in support of their application for discretionary hardship relief, they may commit a criminal offence. All such instances will be dealt with in accordance with the Counter Fraud and Anti-Corruption Policy and any overpaid monies will be recovered together with any outstanding council tax.

## Equality impact assessments – for services, policies and projects

### What is an equality impact assessment?

An equality impact assessment is an important part of our commitment to improving equality practice. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our citizens, employees and potential employees.

By undertaking an impact assessment, we are able to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

Impact assessment are required by law; The Race Relations Amendment Act, The Disability Discrimination Act and the amended Sex Discrimination Act all require local authorities to assess the impact of their functions, policies, projects and services, or the likely impact of any that are proposed, on equality.

However, our view is that we should be using the results of impact assessment to improve service delivery so that we become more accountable to the people that we serve.

### Background

<b>Name of service / policy / project and date</b>	<b>Revenues and Benefits. The service is introducing a new Council Tax Support scheme from 1 April 201</b> <b>The scheme differs significantly to the existing scheme and as a result will have a financial impact on certain customers who receive support.</b>
<b>Lead officer</b>	<b>Jayne Gilpin, Head of Revenues and Benefits</b>
<b>Other people involved in completing this form</b>	<b>David Wyatt, Deputy Revenues and Benefits Manager</b>

## Step 1 - About the service / policy / project

### What is the aim of the service / policy / project and what outcomes is it contributing to

Council tax support is provided to around 6,000 households in Cheltenham at an annual cost of just under £6m. This includes working and pension age claimants. Approximately 60% of these households are of working age. The cost of the council tax support scheme is met by this council and the precepting authorities who are the county council and the police. The share of the cost is the same as the share of the council tax.

Prior to April 2013, council tax payers on a low income could apply for council tax benefit to help pay their Council Tax. Under this national scheme and in accordance with the regulations, council tax payers could receive benefit of up to 100% of their council tax liability. The Council then received full funding from the government for all council tax benefit awards made.

From April 2013, Councils became responsible for designing their own local council tax support (CTS) scheme for working age people only. The Government also reduced the funding given to Councils to pay for the scheme. Cheltenham Borough Council introduced its local council tax support scheme in April 2013 which more or less replicated the council tax benefit scheme. Council tax support for pensioners was not localised and continues to be provided for by a national scheme.

Each year the Council has to decide whether to make changes to the administration of its council tax support scheme for working age applicants in the borough. This year we have consulted on changes that could be made to the scheme from 1 April 2019. As previously mentioned, the Council, and precepting authorities are facing funding cuts year on year. We also need to modernise and make changes to the current scheme so that it works together with the changes that are being made at a national level with the introduction of Universal Credit. People who have made the transition to Universal Credit have their entitlement to this recalculated each month, taking into account any fluctuations in income. As Universal Credit is income for the purposes of council tax support, a change also has to be made to the person's council tax support. This then results in revised changes to council tax instalments every month which can make budgeting very difficult for those customers.

Cheltenham became a full Universal Credit area in January 2018 and as more people claim Universal Credit or transfer to it, the need to revise the council tax support scheme and simplify the administration, make the claiming process easier and simpler becomes more pressing.

The aim of the service is to revise the council tax support scheme from 1 April 2019 by introducing a banded income scheme. The calculation of council tax support will change significantly and the qualifying conditions are also being revised which will lead to some customers receiving either less support or none at all. The outcome will be that the council tax support scheme will be easier to administer and reduce the expenditure of the scheme for working age customers.



<p><b>Who are the primary customers of the service / policy / project and how do they / will they benefit</b></p>	<p>It is important to note that any proposed changes to the council tax support will not affect pensioners. These people are protected and their council tax support will continue to be awarded on the basis of the scheme prescribed by Central Government.</p> <p>The changes will apply to working age people only who currently receive council tax support or apply in the future for help to have their council tax discounted. There will be no protection for working age people and the new scheme will apply without exception from 1 April 2019.</p> <p>The working age customers who continue to require support or who claim council tax support in the future will provide evidence of their income and capital and the people living in their household. The level of income a person is determined to have will be derived from detailed scheme rules. Once the level of income has been derived, the band in which this income level falls will decide what level of support can be provided. There will be five income bands and the support provided will be either 20%, 40%, 60%, 80% or 100% of the charge.</p> <p>The amount of council support awarded is paid direct to the council tax account as a discount and the person then pays the reduced amount by instalments.</p>
<p><b>How and where is the service / policy / project implemented</b></p>	<p>The Revenues and Benefits service, based at the Municipal Offices provides the service to customers and the revised council tax support scheme will be implemented from there.</p>
<p><b>What potential barriers might already exist to achieving these outcomes</b></p>	<p>A draft council tax support scheme must be written, taking into account views from the public consultation, the views of the Cabinet Member for Finance and the financial forecasting that has been undertaken. Forecasting, utilising software provided by Civica Open Revenues, has been used to model a proposed scheme, identifying those who will lose from a revised scheme.</p> <p>The proposed scheme will be submitted to the November Cabinet for consideration. Subject to agreement, the scheme will be published in draft on the Council's web site and further comments invited. The final report and proposed scheme will be presented at Full Council in December 2018.</p>

**Step 2 – What do you know already about your existing / potential customers**

<p><b>What existing information and data do you have about your existing / potential customers e.g. Statistics, customer feedback, performance information</b></p>	<p>Every applicant making a claim for council tax support provides the following personal information:</p> <ul style="list-style-type: none"> <li>• the date of birth, sex and nationality of each person in the household</li> <li>• the income of each person in the household, including non dependants (for example grown up children)</li> <li>• the capital of each person in the household</li> <li>• whether any person has a disability</li> <li>• whether the person is in a same sex relationship</li> </ul>
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	<p>The information obtained from the customer is not for statistical purposes. The information is obtained only to be able to determine a council tax support entitlement. No data is held on the system relating to:</p> <ul style="list-style-type: none"> <li>• sexual orientation</li> <li>• ethnicity and/or race</li> <li>• religion or belief</li> </ul> <p>Information may be held, subject to the customer volunteering it on the following:</p> <ul style="list-style-type: none"> <li>• pregnancy and/or maternity/paternity</li> <li>• gender reassignment</li> </ul>
<p><b>What does it tell you about who uses your service / policy and those that don't?</b></p>	<p>People are accessing the service as they do not have enough household income to pay their council tax. The reason for claiming assistance is purely financial. There are no other advantages. It tells us that those who do not claim assistance and pay their council tax from their household income do not require the same level of financial support as those that do.</p> <p>The information and data held tells us the following information:</p> <ul style="list-style-type: none"> <li>• the age of the customer and others in the household</li> <li>• the number of men and women claiming council tax support</li> <li>• the number of customers who have responsibility for a child or children</li> <li>• the number of people in the household</li> <li>• whether there are any disabilities</li> <li>• the household income</li> <li>• whether any capital is held</li> </ul>
<p><b>What have you learnt about real barriers to your service from any consultation with customers and any stakeholder groups?</b></p>	<p>No adverse feedback has been provided from consultation with customers and stakeholder groups.</p> <p>The service is made widely available to ensure that all members of the community can access it. Application forms are available and can be emailed or posted to customers. The application form is also available to be downloaded on line. A visiting service is provided for those customers who are unable to visit the council offices and require assistance with form filling in their homes.</p>





	<p>There are various other options available in the town centre for people to take advice on claiming council tax support including advice agencies like CCP and CAB.</p> <p>Customers identified as having difficulties in paying their council tax are also invited to make claims for council tax support. This is built into the council tax recovery processes and is a preferred option to taking enforcement action.</p>
<b>If not, who do you have plans to consult with about the service / policy / project?</b>	Not applicable.

### Step 3 - Assessing Impact

How does your service / policy / project impact on different groups in the community?

Group	What are you already doing to benefit this group	What are you doing that might disadvantage this group	What could you do differently to benefit this group	No impact on this group
<b>Ethnicity / Race</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Sex</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Gender Reassignment</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Age</b>	Council tax support is awarded to any age group (over 18) if their financial position warrants help. This includes people of working age and pension age	The local council tax support scheme only applies to those customers of working age. Therefore this group of people aged 18 to 67 will be directly impacted upon	The council tax support scheme could remain unchanged but this is an unlikely option. Support will be made available to customers affected	There will be an impact on some customers due to their financial position and the household income they have
<b>Disability</b>	Council tax support currently assists people with disabilities. Certain disabilities attract prescribed allowances and premiums in the calculation of the support which are advantageous to customers	The scheme is being revised so that allowances and premiums are no longer applicable in the calculation. This in itself may disadvantage some customers.	Consideration is being given to protect certain groups including those with disabilities and those who have disabled children. Customers who receive Employment and Support Allowance IR (ESA) are likely to continue to receive the maximum 100% support and those customers with disabled	There may be some impact on a few customers due to their financial position and the household income they have, but the impact is being moderated by introducing enhancements to the scheme for these customers. The customers with

			children will have additional income disregards which will be advantageous to the amount of support payable	disabilities that are affected will be those who have additional income, for example, a partner with earnings
<b>Religion or belief</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Sexual orientation</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Marriage and Civil Partnership</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	No specific impact identified
<b>Pregnancy &amp; Maternity</b>	No specific benefits to this group	No specific disadvantages to this group	There is no requirement to do things differently to benefit this group	There will be an impact on some customers due to their financial position and the household income they have
<b>Other socially excluded groups or communities</b>	No specific benefits to these groups or communities	No specific disadvantages to these groups or communities	There is no requirement to do things differently to benefit these groups	No specific impact identified

#### Step 4 - what are the differences

<b>Are any groups affected in different ways to others as a result of the service / policy / project?</b>	Yes. Councils became responsible for designing their own local council tax support scheme for <u>working age people only</u> . The Government also reduced the funding given to Councils to pay for the scheme. Cheltenham Borough Council introduced its local council tax support scheme in April 2013 which more or less replicated the council tax benefit scheme. <u>Council tax support for pensioners was not localised and continues to be provided for by a national scheme.</u>
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	<p>As a result of this people of working age are affected by a local council tax support scheme. The Government produced its own Equality Impact Assessment in 2012 prior to the introduction of localised support being introduced. <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8464/2063707.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8464/2063707.pdf</a></p> <p>In localising support for council tax, the Government believes that local schemes should provide support for the most vulnerable, including vulnerable pensioners. The Government has concluded that support for vulnerable pensioners should be delivered through a national framework of criteria and allowances. Local authorities already have clearly defined responsibilities in relation to, and awareness of, the most vulnerable groups and individuals other than pensioners in their areas. This includes, for example, through their responsibilities under:</p> <ul style="list-style-type: none"> <li>• The Child Poverty Act 2010, which imposes a duty on local authorities to have regard to and address child poverty and their partners, to reduce and mitigate the effects of child poverty in their local areas;</li> <li>• The Disabled Persons (Services, Consultation and Representation) Act 1986, and Chronically Sick and Disabled Persons Act 1970, which include a range of duties relating to the welfare needs of disabled people;</li> <li>• The Housing Act 1996, which gives local authorities a duty to prevent homelessness with special regard to vulnerable groups.</li> </ul>
<p><b>Does your service / policy / project either directly or indirectly discriminate?</b></p>	<p>The council tax support scheme will directly discriminate against people of working age. However the Government view is that by giving local authorities a significant degree of control over how a reduction in expenditure is achieved allowing councils to balance local priorities and their own financial circumstances. Reducing the costs of support for council tax is a contribution to the Government's vital programme of deficit reduction. Giving local authorities a financial stake in the provision of support for council tax and so a greater stake in the economic future of their local area, so supporting the Government's wider agenda to enable stronger, balanced economic growth across the country. This reform creates stronger incentives for councils to get people back into work and so support the positive work incentives that are being introduced through the Government's implementation of Universal Credit.</p>
<p><b>If yes, what can be done to improve this?</b></p>	<p>The council tax support scheme forecasting has identified that protection can be given to the most vulnerable working age people in the borough. It is proposed in the draft scheme that those customers who receive "passported" benefits including Job Seeker's Allowance, Income Support and Employment and Support Allowance will continue to receive up to 100% support ensuring that they continue to pay no (or very little) council tax.</p>
<p><b>Are there any other ways in which the service / project can help support priority communities in Cheltenham?</b></p>	<p>Yes. The proposed draft scheme has been designed to protect where possible and provide greater financial assistance to priority communities. However due to the costs associated with the council tax support scheme having to be reduced some customers will inevitably see a reduction in the value of support provided from 1 April 2019.</p>

	<p>The banded income scheme has been designed with the following elements to ensure that within the scheme certain priority communities face less of an impact:</p> <ul style="list-style-type: none"> <li>• child benefit and maintenance payments made in respect of children are wholly disregarded</li> <li>• a weekly disregard of up to £175 (for one child) or £300 (two children or more) will apply to customers who pay child care and who fit the qualifying conditions</li> <li>• an additional £65 weekly disregard will apply for each disabled child living in the household</li> <li>• an earnings disregard of £10 per week will apply to those customers who fit the qualifying conditions</li> <li>• Attendance Allowance, Personal Independence Payments, Disability Living Allowance and War Pensions will be wholly disregarded</li> <li>• customers who receive Job Seeker’s Allowance, Income Support and Employment and Support Allowance will continue to receive up to 100% support ensuring that they continue to pay no (or very little) council tax</li> </ul>
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### Step 5 – taking things forward

<p><b>What are the key actions to be carried out and how will they be resourced and monitored?</b></p>	<p>A forecasting tool is being used which has been provided by Civica, the software provider for Open Revenues. The forecasting tool allows modelling of different schemes to be carried out and developed to suit the needs of the customers and the Council. The modelling carried out enables the Council to establish any financial winners and losers and the extent of these. The number of winners needs to be mitigated to as few as possible as this has a direct impact upon the numbers of people losing from the new scheme.</p> <p>Once the modelling is complete a draft scheme will be devised which will encompass the views of the people who completed the on line consultation survey and the political steer. The scheme will be presented to Cabinet in November 2018 with a recommendation that it is adopted from 1 April 2019 as the Council’s preferred council tax support scheme. The draft scheme, subject to Cabinet approval will be published on line inviting further comments from the public. The final scheme will then be presented to Full Council in December 2018 seeking Council approval.</p> <p>The software, to enable the calculation of a banded income council tax support scheme, will be purchased and tested thoroughly in the lead up to annual billing 2019. The software mirrors the forecasting tool software and the parameters enabling the calculation of council tax support are the same. The software will be purchased from existing budgets.</p> <p>Work will be undertaken to identify customers who will no longer qualify or who will see a reduction in their council tax support entitlement from 1 April 2019. These customers will be written to explaining that they will no longer receive the amount of support that they have been used to. They will be advised that they can spread their council tax payments over twelve months instead of the statutory ten, if they are not already doing so. They will be advised to take steps to review their household budgets from April 2019 to ensure that they have the funds available to pay their increased council tax instalments. Furthermore they will be encouraged to seek help and advice if they begin to</p>
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	struggle meeting their new monthly council tax instalments from April 2019.
<b>Who will play a role in the decision-making process?</b>	<p>The Head of Revenues and Benefits and the Deputy Revenues and Benefits Manager will devise the draft scheme to be presented to the elected Members of the Council.</p> <p>The decision to implement the new scheme and on what basis will be taken by the elected Members at the Full Council meeting scheduled for December 2018.</p>
<b>What are your / the project's learning and development needs?</b>	The learning and development needs relate to the new banded scheme software and staff training. The calculation of council tax support will be a departure from what Revenues and Benefits staff have been used to administering. Full training will be provided to Revenues and Benefits staff ahead of the annual billing exercise in March 2019.
<b>How will you capture these actions in your service / project planning?</b>	<p>A change to the council tax support scheme is the single most important project that the Revenues and Benefits Service will complete during 2018-19. The scheme is high profile and is likely to attract adverse publicity from those opposing the change.</p> <p>The actions necessary for the project to be a success and the project planning will be overseen by the Head of Revenues and Benefits and the Deputy Revenues and Benefits Manager.</p>

**Cheltenham Borough Council  
Cabinet – 4<sup>th</sup> December 2018  
Council – 10<sup>th</sup> December 2018  
Treasury Mid-Term Report 2018/19**

<b>Accountable member</b>	Finance, Rowena Hay
<b>Accountable officer</b>	Section 151 Officer, Paul Jones
<b>Accountable scrutiny</b>	Treasury Management Panel
<b>Ward(s) affected</b>	None
<b>Key Decision</b>	Yes
<b>Executive summary</b>	The Treasury Management Strategy for 2018/19 has been determined by the adoption of the Chartered Institute of Public Finance and Accountancy's <i>Treasury Management in the Public Services: Code of Practice</i> (the CIPFA Code) which requires the council to approve treasury management semi-annual and annual reports.
<b>Consultation</b>	The Treasury Management Panel considered this report on 19th November 2018 and recommended this on to Cabinet and Council.
<b>Recommendations</b>	<b>Cabinet and Council :</b>  <b>1. Note the contents of the summary report of the treasury management activity during the first six months of 2018/19.</b>

<b>Financial implications</b>	All financial implications are detailed throughout the report  <b>Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk, 01242 264337</b>
<b>Legal implications</b>	None specific arising from the report recommendations.  <b>Contact officer: Peter Lewis, peter.lewis@tewkesbury.gov.uk, 01242 264216</b>
<b>HR implications (including learning and organisational development)</b>	No direct HR implications arising from this report  <b>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk. 01242 264355</b>
<b>Key risks</b>	see appendix 2

<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	None

## 1. Background

- 1.1** In February 2011 the Authority adopted the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice* (the CIPFA Code) which requires members to approve the treasury management semi-annual and annual reports.
- 1.2** The Council's treasury management strategy for 2018/19 was approved at a meeting on 19<sup>th</sup> February 2018. The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk is therefore central to the council's treasury management strategy.
- 1.3** Following consultation in 2017, CIPFA published new versions of the Prudential Code for Capital Finance in Local Authorities (Prudential Code) and the Treasury Management Code of Practice but has yet to publish the local authority specific Guidance Notes to the latter. Also in England the Ministry for Housing Communities and Local Government (MHCLG) published its revised Investment Guidance which came into effect from April 2018.
- 1.4** The updated Prudential Code includes a new requirement for local authorities to provide a Capital Strategy, which is to be a summary document approved by full council covering capital expenditure and financing, treasury management and non-treasury investments. The council will be updating its Capital Strategy later in 2018/19 for approval by full council in February 2019.

## 2. Economic update for the first six months

The following key points have been provided by the councils Treasury Advisors, Arlingclose.

- 2.1** Oil prices rose by 23% over the six months to around 82\$/barrel. UK Consumer Price Inflation (CPI) for August rose to 2.7% year on year, above the predicted forecast of the Bank of England's Inflation Report for August, as the effects of sterling's large depreciation in 2016 began to fade. The most recent labour market data for July 2018 showed the unemployment rate at 4%, its lowest since 1975. The 3-month average annual growth rate for regular pay, i.e. excluding bonuses, was 2.9% providing some evidence that a shortage of workers is providing support to wages. However real wages (adjusted for inflation) grew only by 0.2%, a marginal increase unlikely to have had much effect on households.
- 2.2** The Rebound in quarterly GDP growth in Q2 to 0.4% appeared to overturn the



weakness in Q1 which was largely due to weather-related factors. However, the detail showed much of Q2 GDP growth was attributed to an increase in inventories. Year on year GDP growth at 1.2% also remains below trend. The Bank of England made no changes to monetary policy at its meetings in May and June, however hawkish minutes and a 6-3 vote to maintain rates was followed by a unanimous decision for a rate rise of 0.25% in August, taking Bank Rate to 0.75%.

- 2.3** Having raised rates in March, the US Federal Reserve again increased its target range of official interest rates in each of June and September by 0.25% to the current 2%-2.25%. Markets now expect one further rise in 2018. The escalating trade war between the US and China as tariffs announced by the Trump administration appeared to become an entrenched dispute, damaging not just China but also other Asian economies in the supply chain. The fallout, combined with tighter monetary policy, risks contributing to a slowdown in global economic activity and growth in 2019.
- 2.4** The EU Withdrawal Bill, which repeals the European Communities Act 1972 that took the UK into the EU and enables EU law to be transferred into UK law, narrowly made it through Parliament. With just six months to go when Article 50 expires on 29<sup>th</sup> March 2019, neither the Withdrawal Agreement between the UK and the EU which will be legally binding on separation issues and the financial settlement, nor its annex which will outline the shape of their future relationship, have been finalised, extending the period of economic uncertainty.

### **3. Treasury Management Summary position 1/4/2018 to 30/9/2018**

- 3.1** On the 31<sup>st</sup> March 2018, the Council had net borrowing of £53.569m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table 1 below.

Table 1: Balance Sheet Summary

	<b>31.3.18 Actual £m</b>
General Fund CFR	42.651
HRA CFR	44.750
<b>Total CFR</b>	<b>87.401</b>
Less: Usable reserves	32.118
Less: Working capital	1.714
<b>Net borrowing</b>	<b>53.569</b>

- 3.2** The Council's current strategy has been to fund a number of capital asset purchases with the use of temporary borrowing and then take long term borrowing from the Public Works Loan Board (PWLB). At the back end of September the Council took out 38 Maturity loans with the PWLB for £43.083m to fund the purchase of several commercial properties within the Borough. The loans were taken out over 3yrs to 40yrs with the average rate of 2.57%. This has saved £940k in interest over the life of the borrowing when compared to the original business cases.
- 3.3** As at 31<sup>st</sup> March 2018 the Council held loans of £72.086m but has significantly

borrowed more as mentioned in paragraph 3.2, taking the balance to £139.125m as at 30<sup>th</sup> September 2018. £20m was taken on a temporary basis to fund the purchase of an asset before taking out the PWLB loan. This was repaid in mid-October 2018. The weighted average interest rate on these loans is 2.70% down from 3.42% in March 2018. Borrowing costs have risen to align with the additional borrowing. The costs are likely to rise from £2.424m to £3.065m, an increase of £641k; however these additional costs will be met in full from additional rental income from the commercial properties purchased this year and surplus investment income as detailed in paragraph 4.3.

Table 2: Treasury Management Summary

	<b>31.3.18 Balance £m</b>	<b>Movement £m</b>	<b>30.9.18 Balance £m</b>	<b>30.9.18 Rate %</b>
Long-term borrowing	64.286	41.839	106.125	3.31
Short-term borrowing	7.80	25.20	33.00	0.73
<b>Total borrowing</b>	<b>72.086</b>	<b>67.039</b>	<b>139.125</b>	<b>2.70</b>
Long-term investments	4.00	4.00	8.00	4.67
Short-term investments	11.00	35.20	46.20	0.74
Cash and cash equivalents	2.243	8.033	10.276	0.53
Icelandic	0.435	(0.007)	0.428	-
<b>Total investments</b>	<b>17.678</b>	<b>47.226</b>	<b>64.904</b>	<b>1.95</b>
<b>Net borrowing</b>	<b>54.408</b>	<b>19.813</b>	<b>74.221</b>	

## 4. Investments

- 4.1 The Council holds significant invested funds, representing income received in advance of expenditure plus balances, reserves held and money borrowed in advance of need. During the six month period the council's investment balance ranged between £16.625m and £65.234m due to timing differences between income and expenditure. The investment position is shown in table 3 below.

Table 3: Treasury Investment Position

	<b>31.3.18 Balance £m</b>	<b>Net Movement £m</b>	<b>30.9.18 Balance £m</b>	<b>30.9.18 Rate of Return %</b>
Banks & Building Societies (unsecured)	9.000	(1.000)	8.000	0.75
Local Authorities	3.000	36.000	39.000	0.76
Money Market Funds/ Call Accounts	1.946	8.330	10.276	0.53
CCLA Property Fund	3.000	-	3.000	4.08
Schroders Maximiser Fund	-	2.000	2.000	8.86
CCLA Diversified Income Fund	-	2.000	2.000	3.20
<b>Total Investments</b>	<b>16.946</b>	<b>47.330</b>	<b>64.276</b>	

- 4.2** Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking optimum rate of return, or yield. All investments made to date in this financial year have been in line with the approved lending list set in February 2018.
- 4.3** In February 2018 the Council's Investment income for 2018/19 was budgeted to be £328,200. The average cash balances representing the council's reserves and working balances, was £25.154m during the period this report covers. The Council anticipates an investment outturn of £477,700 at a rate of return of 2.03% for this financial year. Estimated surplus for investment income is £149.5k for the financial year.
- 4.4** Net loans and investments are estimated to be £593,500 over the original budget but after aligning budgets with the business cases for the commercial properties purchased the estimated year end will come in on budget.
- 4.5** The Housing Revenue Account (HRA) has benefited by holding higher reserves and balances at the start of the financial year plus the higher interest rate returns achieved has seen their investment interest increase by £116k. The 2018/19 budget has been updated to show this change.

## 5. Outlook for the remainder of 2018/19

- 5.1** Having raised policy rates in August 2018 to 0.75%, the Bank of England's Monetary Policy Committee (MPC) has maintained expectations of a slow rise in interest rates over the forecast horizon.
- 5.2** The MPC has a definite bias towards tighter monetary policy but is reluctant to push interest rate expectations too strongly. While policymakers are wary of domestic inflationary pressures over the next two years, it is believed that the MPC members consider both that (a) ultra-low interest rates result in other economic problems, and that (b) higher Bank Rate will be a more effective weapon should downside Brexit risks crystallise and cuts are required.
- 5.3** Arlingclose's central case is for Bank Rate to rise twice in 2019. The risks are weighted to the downside.

	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21
<b>Official Bank Rate</b>													
<b>Upside risk</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25
<b>Arlingclose Central Case</b>	0.75	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
<b>Downside risk</b>	0.00	0.00	0.50	0.50	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75

## 6.1 Compliance

The Chief Finance Officer reports that all treasury management activities undertaken during the first six months complied fully with the CIPFA Code of Practice and the Authority's approved Treasury Management Strategy. Compliance with specific investment limits is demonstrated in table 4 below.

Table 4: Debt Limits

	30.9.18 Actual £m	2018/19 Operational Boundary	2018/19 Authorised Limit	Complied? Yes/No
Borrowing	139.25	175.00	185.00	Yes
<b>Total debt</b>	<b>139.25</b>	<b>175.00</b>	<b>185.00</b>	

Since the operational boundary is a management tool for in-year monitoring it is not significant if the operational boundary is breached on occasions due to variations in cash flow, and this is not counted as a compliance failure.

<b>Report author</b>	<b>Contact officer: Andrew Sherbourne, andrew.sherbourne@cheltenham.gov.uk  01242 264337</b>
<b>Appendices</b>	Risk Appendix 1
<b>Background information</b>	Treasury Management Strategy, Council 19th February 2018

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	I	L	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	LOBO Loans - If £7m of these loans is recalled by the banks if they choose to exercise their option then we would need to have the resources on the day to repay. Alternative borrowing arrangements at today's current rates would be favourable for the Council	Section 151 Officer Paul Jones	24 <sup>th</sup> January 2012	1	2	2	Accept	If the loans are recalled the council could take out temporary borrowing which is currently much lower than the rates on these loans. Any capital receipts available could also be used to repay debt.	March 2019	Section 151 Officer Paul Jones	

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