



# CHELTENHAM BOROUGH COUNCIL

## Notice of a meeting of Council

**Monday, 7 December 2020**

**2.30 pm**

**Council Chamber, Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	Roger Whyborn (Chair), Sandra Holliday (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, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Alex Hegenbarth, Karl Holey, 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

### **A Moment of Reflection**

(to be led by the Mayor's Chaplain- Rev Luke Goodway)

*This will be of an inclusive nature and held virtually at 12 noon. All Members are welcome to participate but need not do so.*

### **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 meetings held on :  20 July 2020 29 July 2020 (extraordinary meeting)  16 November 2020 (extraordinary meeting)	(Pages 5 - 56)
<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 1 December 2020.	
<b>8.</b>	<b>MEMBER QUESTIONS</b> These must be received no later than 12 noon on Tuesday 1 December 2020.	
<b>9.</b>	<b>APPOINTMENT OF THE LEADER</b> To appoint the Leader of the Council for the ensuing 4 years and to note the membership of Cabinet including the Deputy Leader.  The Mayor will invite a proposer and seconder for Leader of the Council. After a vote, the Mayor will invite the newly appointed Leader to address the Council and announce the Deputy Leader and the membership of the Cabinet.	
<b>10.</b>	<b>APPOINTMENT OF VICE CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE</b> The Mayor will invite a proposer and seconder for the Vice Chair of the Overview and Scrutiny Committee.	
<b>11.</b>	<b>SPECIAL RESPONSIBILITY ALLOWANCES AND OUTSIDE BODIES</b> Report of the Chair of Overview and Scrutiny	(Pages 57 - 68)
<b>12.</b>	<b>SCRUTINY ANNUAL REPORT 2019-20</b> Report of the Chair of Overview and Scrutiny	(Pages 69 - 88)
<b>13.</b>	<b>ADOPTION OF LICENSING ACT 2003 POLICY STATEMENT</b> Report of the Cabinet Member Development and Safety	(Pages 89 - 166)
<b>14.</b>	<b>LOCAL COUNCIL TAX SUPPORT SCHEME 2021/22</b> Report of the Cabinet Member Finance	(Pages 167 - 286)
<b>15.</b>	<b>TREASURY MID-TERM REPORT 2020/21</b> Report of the Cabinet Member Finance	(Pages 287 - 300)
<b>16.</b>	<b>NHS FIT FOR THE FUTURE CONSULTATION-COUNCIL RESPONSE</b> Report of the Cabinet Member Healthy Lifestyles	(Pages 301 - 336)
<b>17.</b>	<b>NOTICES OF MOTION</b>	
<b>18.</b>	<b>ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION</b>	
<b>19.</b>	<b>LOCAL GOVERNMENT ACT 1972 -EXEMPT INFORMATION</b> The committee is recommended to approve the following resolution:-	

	<p>“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:</p> <p>Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p>	
<b>20.</b>	<b>A FINANCIAL MATTER</b> Report of the Leader TO FOLLOW	

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**Gareth Edmundson**  
**Chief Executive**

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### Council

**Monday, 20th July, 2020**

**2.30 - 6.15 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Roger Whyborn (Chair), Sandra Holliday (Vice-Chair), Victoria Atherstone, Matt Babbage, Paul Baker, Garth Barnes, Dilys Barrell, Nigel Britter, Jonny Brownsteen, Flo Clucas, Chris Coleman, Mike Collins, Stephen Cooke, Iain Dobie, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Alex Hegenbarth, Karl Hobley, Martin Horwood, 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

### Minutes

**1. APOLOGIES**

Councillors Boyes and Jeffries.

**2. DECLARATIONS OF INTEREST**

Councillor Flynn declared an interest in agenda item 11 as a member of Hester's Way Neighbourhood Partnership.

**3. MINUTES OF THE LAST MEETING**

The minutes of the meeting held on 15 June were approved and signed as a correct record.

**4. COMMUNICATIONS BY THE MAYOR**

The Mayor explained that mayoral engagements remained greatly curtailed in the circumstances. He informed Members that there was currently approx. £3k in the Mayor's foodbank fund, with some disbursements already made.

He then made reference to a meeting he had attended virtually with regard to an initiative to pool funding to provide those children on free school meals with food over the schools holiday. More information would follow.

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

The Leader of the Council informed Members that the Gloucestershire Covid-19 outbreak management plan had been published on 30 June and was now available to view on the GCC website. It had been coordinated by the Director of Public Health.

The existing Gloucestershire Health Protection Board had been adapted to coordinate any issues for the planning of a potential outbreak and a new Member Engagement Board which included District Council Leaders had been

established and met on a monthly basis to coordinate communications. It provided weekly updates and a data dashboard was in the process of being set up.

Additionally, the Leader referred to the council's recovery strategy which had been approved by Cabinet at its July meeting. He placed on record his thanks to Members and others for their contributions to this evolving document, and informed that the climate change and cultural emphasis had been strengthened as a result of consultation.

The Leader then informed that an extraordinary Cabinet meeting had been convened on Tuesday 28 July at 4pm to consider the budget outturn report to be followed by an extraordinary meeting of Council scheduled for 4pm on Wednesday 29 July.

Finally, the Leader referred to the significant contributions the Cheltenham Development Task Force (CDTF) had made to the town over the last 10 years. It represented a great private-public sector partnership. He wished to place on record his thanks to Graham Garbutt, Chair of the CDTF and Jeremy Williamson who had both played a significant role in many developments across the town over the last 10 years.

He added that the CDTF would morph into the Cheltenham Recovery Task Force which would be in place for the next 18 months and then would be reviewed. He was pleased to announce that Diane Savoury had agreed to be the independent chair of this group and an initial meeting of the task force would take place over the next couple of months.

**6. TO RECEIVE PETITIONS**

None received.

**7. PUBLIC QUESTIONS**

<b>1.</b>	<b>Question from Sally Walker to the Leader of the Council, Councillor Steve Jordan</b>
	What is the process for <b>changes to be made to the local plan post adoption</b> , particularly in the event of new material considerations arising with regard to any site allocated for development?
	<b>Response from Cabinet Member</b>
	Once a local plan is adopted by the Council it can only be amended through the plan-making procedure; including preparation, publication, and examination by the Planning Inspectorate on behalf of the Secretary of State. The planning system requires that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. Therefore, any new material considerations relating to an allocated site would be considered as part of any decision on a planning application on that site.
<b>2.</b>	<b>Question from Sally Walker to the Leader of the Council, Councillor Steve Jordan</b>
	Can the council reassure us that the delegated powers to the planning department (to address issues of consistency etc) <b>do not extend to changing the language on housing allocations, and that council confirm the inspector's language of 'some 25' is the current</b>

	<b>allocation for HD4.</b> [which is now variously down as '25 (table page 11)', 'some 25 (inspectors report)', 'approximately 25' and 'minimum 25 (table page 13)'.]
	<b>Response from Cabinet Member</b>
	<p>Yes, changes to the Local Plan that change the intent of the Local Plan are not delegated to the planning department.</p> <p>The proposed wording of Policy HD4 is included at Appendix 4 of item 10 on the Cheltenham Borough Council Full Council meeting on the 20th July 2020. The wording of Policy HD4 is 'a minimum of 25 dwellings...'. This wording was including in the Cheltenham Plan Main Modifications documentation, approved by the Council on the 14th October 2019 and consulted on towards the end of 2019. Various comments were made on the Main Modifications, including policy HD4/Main Modification 16 during the public consultation. The Main Modifications and all the various comments received were presented (in full) to the Plan Inspector. Having considered the modifications and comments, the Inspector has subsequently determined that the Cheltenham Plan, with the Main Modifications, is 'sound' and can proceed to be considered for adoption. I am unable to comment on the Inspectors use of certain words in their response to the Cheltenham Plan Main Modification proposals.</p> <p>Any changes to the wording contained in the Main Modification consultation and now in the proposed Cheltenham Plan (adoption version) are limited to changes that, when taken together, do not materially affect the policies that would be set out in the document if it was adopted with main modifications but no other modifications.</p>
	<b>Supplementary question from Sally Walker</b>
	<p>I trust the council recognise that the adoption of the plan without review options for at least 5 years raises the unwelcome risk of legal challenge to adoption of the plan or specific policies (as the only route to redress).</p> <p>The DCLG fact sheet on local plans states that "local plans should be reviewed regularly, in whole or in part, to respond flexibly to changing circumstances".</p> <p>Does the council think Cheltenham should agree criteria to review new material considerations affecting individual policies or parts of the plan, outside the rolling 5 year review process? This would improve community engagement and would also provide options to integrate Covid or future lockdown requirements into the plan if required.</p>
	<b>Response from Leader</b>
	The Leader explained that the JCS was currently being reviewed so commencing a review in effect which will trigger another local plan Allow some time for it to settle down
<b>3.</b>	<b>Question from Trudie Wheat to the Leader of the Council, Councillor Steve Jordan</b>
	Public feedback clearly indicates that a green buffer zone between the new cyber / golden valley development and existing housing is of great importance to local residents.

	<p>Please can you explain why requests for a green buffer zone between the new industrial area and existing housing on Fiddlers Green Lane are being rejected? This is in contrast to incorporation of a green buffer between new and existing housing.</p>
	<p><b>Response from Cabinet Member</b></p> <p>Landscape improvements will be expected to be delivered by development along the length of the threshold with the existing urban area west Cheltenham, including along Fiddlers Green Lane where the proposal cluster of employment uses is earmarked. Policy A7 of the JCS includes a requirement for new development to be integrated with the existing built up area of the town so a balance does need to be struck between creating good connections and providing buffers between areas.</p> <p>The main access to the site will be via Telstar Way so establishing good quality connections and urban integration in this part of the site will be particularly important. There will however be opportunities to establish green edges all the way around the site and the SPD supported the principle of retaining landscape assets such as existing hedges.</p>
	<p><b>Supplementary question from Trudie Wheat</b></p> <p>Can you explain your expectation of landscape improvements to be delivered by development along Fiddlers Green Lane. It is hard to imagine how development of an employment site will improve the current landscape.</p> <p>Can you explain the decision that urban integration of the new employment area is more important than urban integration of the new housing and how a large employment development can be successfully integrated into an existing residential area without overwhelming it.</p>
	<p><b>Response from the Leader</b></p> <p>This site is being looked at as an agreed development site. There is an expectation that the landscape will be improved when the council receives the detailed planning application.</p> <p>The Supplementary Planning Document being discussed later in the agenda is for guidance; the detail is determined when the application comes forward. It will be then for the Planning committee to judge the application in the context of the guidance but they would certainly look for landscape improvement.</p> <p>Cyber central was an exciting and exceptional development and needs to integrate into the urban landscape.</p> <p>The council will be looking for green boundaries between it and whatever it is adjoins which will be important at the planning application stage.</p>
4.	<p><b>Question from Jim Lodge to the Leader of the Council, Councillor Steve Jordan</b></p> <p><b>BUFFER ZONES</b></p> <p>Would you please explain, in detail, how the SPD arrived at a proposal for buffer zones between existing residential areas and the new residential development, but not between existing residential areas and the proposed Cyber Park.</p> <p>Page 6 states that there is support for green links to adjoining communities and that retaining green spaces close to existing neighbourhood is a priority.</p>

	<p>Page 8 also refers to emphasis on green spaces in a1.3.10, second paragraph.</p> <p>Page 11 reflects 75% strongly agree with the landscape objective.</p> <p>I would also like to publicly state that it is wholly unacceptable to issue the SPD at such a late time that it has made it impossible to be able to fully read, digest and prepare questions 5 days prior to the Council meeting.</p> <p>For a planning process this is an example of very poor planning.</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>Please see response to Question 3.</p> <p>The council papers for this meeting were published on Friday 10<sup>th</sup> July more than the required time ahead of the council meeting. The timescale for submitting public questions tries to balance the opportunity to ask questions relevant to the agenda while still allowing answers to be provided in time for the meeting.</p> <p>Details of the actual consultation on the SPD are outlined in the consultation statement and public engagement has taken place both informally and formally. The stage we have now reached is the formal approval process which we are undertaking in the usual way.</p>
5.	<p><b>Question from Jim Lodge to the Leader of the Council, Councillor Steve Jordan</b></p>
	<p><b>FIDDLERS GREEN LANE</b></p> <p>There appears to be no distinct policy regarding Fiddlers Green Lane. Page 20 Policy A7 number 5 states the use of Fiddlers Green Lane as a vehicular access for strategic movements to and from site. This is contradicted by Policy A7 number 8, stating there should be safe, easy and convenient pedestrian and cycle links. The 2 are not compatible. My question is why does the document not clearly outline a policy for Fiddlers Green Lane and when a firm policy is identified, what is the process for this to be discussed with the public before a final commitment is made.</p> <p>Page 138 2.1 states 2 access points of which one is Telstar Way/ Fiddlers Green Lane. This is in fact 2 access points, not one.</p> <p>Page 143 refers to a potential re- routing of Fiddlers Green Lane. This supports the 2 and not one access points.</p> <p>It would appear that there is no definite plan for Fiddlers Green Lane within this document.</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>Policy A7 of the JCS is not subject to consultation as this was adopted by the JCS councils in December 2017 and forms part of the statutory development plan for Cheltenham.</p> <p>The principal vehicular access to the site will be across Fiddlers Green Lane at the points of its intersection with Telstar Way. Local traffic management arrangements may need to be revised as more detailed proposals emerge. Any such measures will be a matter for future planning applications. It is too early to be sure what impact the new development will have on Fiddlers Green Lane because detailed proposals for the site have not yet been formed. As things stand however, the intention is that the primary function of Fiddlers Green Lane will remain a local access road for existing local residents. This will all be tested through the development management process when planning</p>

	applications come forward which will be all subject to public consultation at that time.
<b>6.</b>	<b>Question from Andy Hayes to the Leader of the Council, Councillor Steve Jordan</b>
	Bearing in mind the acknowledged sensitivity of the plans for Fiddlers Green Lane both in terms of traffic management and proximity of office and residential buildings, will the council agree to setting up a working group to include key stakeholders including the Hesters Way Forum to address these issues and inform design plans as part of the planning application process?
	<b>Response from Cabinet Member</b>
	This is certainly something we will consider. I have tasked officers to review and engage directly with the Hesters Way Forum on how this could be appropriately managed.
<b>7.</b>	<b>Question from Andy Hayes to the Leader of the Council, Councillor Steve Jordan</b>
	There are six green spaces indicated in in the northern section of the development but only two in the south. Whilst it is recognised that the bulk of the new housing is in the north, there are significant allocations in the south and a large area of residential properties not served by green space adjacent to the site. Will the council commit to a balance of green provision for new and existing communities by including a broad green space adjacent to Fiddlers Green Lane as detailed in the emerging Hesters Way Neighbourhood Plan?
	<b>Response from Cabinet Member</b>
	See response to Question 3. The Hesters Way Neighbourhood Plan was reviewed in the preparation of the SPD. The SPD sets out a masterplan that seeks to make efficient use of land, responds actively in terms of connections to the existing built up area and neighbourhoods in the context of creating a world class business location within a residential landscape which builds on garden community principles.

**8. MEMBER QUESTIONS**

<b>1.</b>	<b>Question from Councillor David Willingham to Cabinet Member Healthy Lifestyles, Councillor Flo Clucas</b>
	Data published by the ONS shows that from 1st March 2020 to 31st May 2020, the Alstone and St Mark's MSOA had the highest Covid-19 mortality rate of any MSOA in the Southwest region, and fourth highest in the whole of England and Wales. On behalf of the communities that I represent and the bereaved families of the deceased, could I ask the Cabinet Member if she would support my calls for an open and transparent public investigation by the County Council into the causes of this tragically high local death rate?
	<b>Response from Cabinet Member</b>
	Following an update from the Director of Public Health, I can confirm that the County Council will be undertaking a piece of work to look at deaths in care homes to identify any learning that can be taken forward. Cheltenham Borough Council will provide whatever support it can to assist with this review. Recently, a detailed report was taken to the County Council's Adult & Social Care Overview & Scrutiny Committee looking at the support provided to care homes and I can arrange for this

	<p>to be circulated to all members. As members are aware there is an Outbreak Management Plan developed by Public Health, which I can confirm that Cheltenham Borough Council Officers are already integrated into, as part of our ongoing commitment to supporting our residents and communities. The Outbreak Management Plan has a strong focus on the prevention of cases and outbreaks in high risk settings such as care homes. Therefore work is on-going to learn from cases and prevent future occurrences in care homes.</p>
	<p><b>Supplementary question</b></p>
	<p>Councillor Willingham firstly wished to put on record his condolences to those who had lost loved ones in this pandemic. Tragically, the area he represents has the highest mortality covid rate in the entire south west region. Prior to 16 April, 111 patients were discharged from hospital in Gloucestershire without being tested for corona virus. GCC appeared to be unclear whether this should fall under the roll of health scrutiny or adult social care scrutiny. He asked whether this could be thoroughly investigated by the CBC Overview &amp; Scrutiny Committee or by something led by the Cabinet Member to ensure that those bereaved families get answers in an open and transparent way.</p>
	<p><b>Response from the Cabinet Member</b></p>
	<p>There has been great deal of concern by those involved in dealing directly with Covid 19 but also senior doctors. At the GCC Health Overview and Scrutiny meeting she was surprised by the lack of proper investigation of those responsible for decision making. In echoing condolences to those affected, she would see if this can be investigated by CBC O&amp;S in order to enable those taking such decisions to defend them, particularly those relating to not testing patients before moving into care homes.</p>
2.	<p><b>Question from Councillor David Willingham to the Leader, Councillor Steve Jordan</b></p>
	<p>Tower Hamlets Council recently successfully challenged a planning decision made by Conservative Minister Robert Jenrick MP, and based upon media reporting, I understand that this decision was quashed because it was "<i>unlawful by reason of apparent bias</i>". Could the Cabinet Member please confirm whether any CBC planning decisions have been determined by that Minister, and if so, whether this council is satisfied that they have not also been the subject of "<i>apparent bias</i>"?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The Rt Hon Robert Jenrick MP has held the post of Secretary of State for Housing, Communities and Local Government since 24 July 2019. Since that time no CBC planning decisions have been determined by him.</p> <p>Gloucestershire County Council have referred their decision on the new Secondary School at Land Between Farm Lane/ Kidnappers Lane, Cheltenham, Gloucestershire to the Secretary of State for Housing, Communities and Local Government as it is a departure from Cheltenham Borough Council's adopted Local Plan. At the time of writing the outcome of that referral is unknown. Whilst this is not a Cheltenham Borough Council planning decision, it is within this council's administrative area.</p>

	<b>Supplementary question</b>
	I would like to seek an assurance that the council will learn from the incidences at Westminster City Council in terms of planning decisions, and ensure that our council does everything it can to protect the integrity of our planning processes through regular review.
	<b>Response from the Leader</b>
	Agreed.
<b>3.</b>	<b>Question from Councillor David Willingham to the Leader, Councillor Steve Jordan</b>
	If evidence comes to light that this Council, acting as Planning Authority, has been seriously misled during the determination of a planning application at committee, and that the errors made by those who misled the Planning Authority are so egregious that they render the Planning Committee's decision unsound, could the Cabinet Member please advise what options are open to affected residents and to this council to correct such a clear injustice?
	<b>Response from Cabinet Member</b>
	There are no third party appeal rights in respect of the determination of a planning application and a planning permission cannot be unilaterally withdrawn, even in such a case, and will stand unless quashed through the courts via a judicial review action (permission for this would need to be sought from the Courts within 6 weeks of the decision) or revoked via processes available under the Town and Country Planning Act 1990 (which may be initiated by the local planning authority or the Secretary of State if believed to be expedient). Where a proposed revocation or modification is opposed, the power to revoke or modify lies solely with the Secretary of State.  Alternatively, a complaint may be made to the Local Government & Social Care Ombudsman. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it, but must consider whether there was fault in the way the decision was reached and if fault is found suggest a resolution which may include the payment of compensation to affected residents.
	<b>Supplementary question</b>
	Where there is an issue with both authorities involved in planning and highway could the Leader make any suggestions to facilitate a constructive resolution?
	<b>Response from the Leader</b>
	As this question is posed in the abstract, I would like to suggest that Cllr Willingham emails further details of the matter and the conversation is taken off line, as opposed to through this formal process.
<b>4.</b>	<b>Question from Councillor David Willingham to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	Currently part of the Regent Street pavement is obstructed by building works. On 12th July 2020, despite the pavement being completely blocked, no ramp was present to ensure access for wheelchair users. While the closure permission was granted by Gloucestershire County



	<p>Council, and their failure to consider wheelchair users seems to be the primary cause of accessibility issues, it is important to try to avoid this occurring at other developments in the future. Does the Borough Council have any way of using enforceable planning conditions to ensure that our highways remain equally accessible by all during construction works?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The responsibility for the permission of these works sits with Gloucestershire County Council. However, to assist CBC officers have made direct contact with the contractor via Regent Arcade who are investigating whether there are any options to improve access. It should be stressed that ramps can only be provided where it is safe to do so.</p> <p>In terms of Planning Conditions, the erection of structures and plant required temporarily (for construction etc) is Permitted Development and does not require planning permission. Further, in many instances temporary structures etc on the highway (for example scaffolding) is the result of works that do not require planning permission in themselves from Cheltenham Borough Council (for example repair and restoration, repainting and so on).</p>
<b>5.</b>	<p><b>Question from Councillor David Willingham to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>Supporting businesses to recover from Covid-19 must be a primary objective of this authority, but the current "café culture" layout on Regent Street presents an inconvenient, if not impossible, obstacle course for wheelchair users, mobility scooter users and parents with baby buggies, does the Cabinet Member agree with me that the Covid-19 recovery should be equally accessible by all, and will he put pressure on Gloucestershire County Council to ensure that what is delivered both supports local businesses while also being safe and equally accessible by all?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>Supporting businesses is very much the objective of this scheme, but there has been some misunderstanding by businesses on the use of this space. Officers have engaged directly with all relevant ones to provide clarity on the positioning of tables and chairs to support economic recovery. Officers are in active engagement with Gloucestershire County Council.</p>
<b>6.</b>	<p><b>Question from Councillor David Willingham to the Leader, Councillor Steve Jordan</b></p>
	<p>What equality training has been given to Borough Council staff working on design and planning for works in the public realm to ensure that those works deliver facilities that full comply with the Council's public sector equality duty and are equally accessible by all?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>As a Council we have a legal obligation to the Equality Act 2010. This flows through across our regulatory services and wider activities of the council. The Townscape Team in particular lead on our public realm works and include qualified Landscape Architects who utilise suitable</p>

	<p>guidance and tools to ensure our responsibilities are being met in the public realm. These include:</p> <ul style="list-style-type: none"> <li>• CBC Community impact assessments</li> <li>• Various national guidance including “Design for Access 2” and ‘Guidance on the use of tactile paving surfaces’</li> <li>• General public engagement – in particular, engagement with the Accessibility Forum</li> </ul> <p>Of these examples, the most robust guidance and best practice followed by the Townscape Team is to consult widely. In this respect, our engagement with the Cheltenham Accessibility Forum is of great importance – a very active local volunteer-led group that represents the accessibility needs of the town. This engagement has been underway since 2015 and includes people with sight, hearing and mobility loss, and those who suffer from cognitive impairment and of course sometimes people with multiple impairments. Through the group we engage with; DeafBlind UK, Insight Gloucestershire, National Star College, the Phoenix Centre and a number of local individuals who have challenges accessing the town.</p> <p>Townscape Team have facilitated engagement beyond our public realm works with this forum by also engaging them with/in:</p> <ul style="list-style-type: none"> <li>• Gloucestershire County Council on cycling and walking infrastructure for West Cheltenham</li> <li>• GWR for audits of Cheltenham Spa Station</li> <li>• Stagecoach for bus travel</li> <li>• Taxi licencing consultation</li> <li>• Developers of the Brewery and Regent Arcade</li> <li>• Public toilets and ShopMobility changes</li> <li>• The Cheltenham Transport Plan</li> </ul> <p>The Townscape Team are closely engaged with the Planning and Licensing teams.</p> <p>More recently, engagement has occurred for temporary widening of the footpaths to enable better/safer social distancing. Review of other schemes taking place nationally, indicates interventions put in place in Cheltenham to date are more accessible than others carried out by many other Highway Authorities around the country.</p>
	<p><b>Supplementary question</b></p>
	<p>I would like to seek an assurance that there is a cultural shift in terms of accessibility for the less able bodied and that it is assigned at the start of a project, rather than retrofitted, particularly due to the practical impact this has on people’s lives.</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The council was committed to accessibility but highlighted that the issue raised referred to temporary buildings and the council did not have the same judicial ability. It was however committed to do everything it could to minimise impact recognising the adverse effect on people’s lives.</p>
<p><b>7.</b></p>	<p><b>Question from Councillor Tim Harman to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>

	<p>The Cabinet Member is aware of my previous question with regard to the Council's decision to discontinue the concessionary parking arrangements for residents adjoining the Bath Terrace Car Park. There is no viable off street solution for the two premises. Will he agree to meet the residents and myself and my ward colleague to see if a solution can be found which would be acceptable to the Borough Council and the residents”</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>One of the residents to whom Councillor Harman refers has made a formal complaint to the Local Government Ombudsman (LGO) concerning this matter and a second resident has indicated an intention to go down the same route. I do not think it would be appropriate to meet with residents whilst this matter is under investigation by the LGO.</p> <p>The authority is not obliged to provide off-street car parking, nor is it required to make concessionary arrangements for particular residents. We have recently been through a statutory consultation process, prior to adopting a new parking order. Whilst I am not aware that the residents concerned made any formal representations in relation to the consultation process, parking permits are available for Bath Terrace car park at a cost which is published on the Council's website. The formula which has been used to set parking permit prices has been consistently applied across all Council-owned car parks.</p>
<b>8.</b>	<p><b>Question from Councillor Jonny Brownsteen to the Cabinet Member Finance, Councillor Rowena Hay</b></p>
	<p>In June, the council swiftly distributed discretionary business grants to businesses across the borough. Staff worked extremely hard to deliver critical support and should be commended for their efforts. Of the eligible businesses who applied for funding, how many were we able to support? And what response have we had from central government to requests for further funding, to help the local businesses which are still in need?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>May I start by endorsing the hard work acknowledged by Councillor Brownsteen to deliver the critical support required by our much valued businesses. Whilst the government provided guidance for the discretionary scheme, I am really proud of the fact that we were able to target those businesses most affected by COVID-19 such as boutique hotels, bars, restaurants and indoor play-areas whose rateable value was above £51k and were unable to qualify for the original scheme.</p> <p>191 applications were received for the discretionary business grant scheme. £1,150,000 has been paid to 103 successful businesses. The other 88 applications were not successful due to the businesses not meeting the eligibility conditions set by the Government and this Council.</p> <p>In addition to the discretionary scheme £22.8m has been paid to 1,817 businesses qualifying for the original Government grant schemes.</p> <p>The Government has so far not responded to requests for further funding.</p>
<b>9.</b>	<p><b>Question from Councillor Jonny Brownsteen to the Cabinet Member Finance, Councillor Rowena Hay</b></p>

	<p>On July 2 the government announced a 'comprehensive package of support' to local authorities. At the time of submitting this question, July 13, we are yet to receive any details much less any of the funds. If the picture is still unclear by the July meeting of full council (Monday 20), can the cabinet member for finance please update members on whatever pertinent information she has: have we been given an indication of how much support Cheltenham can expect to receive; have we been told when that will happen; is that sufficient for our needs; is it proportionate to funding for other councils; and what impact is the delay having on our ability to work our way out of this crisis?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>On 16th July 2020 we were informed by Central Government that we would receive £172,147 from the 3<sup>rd</sup> tranche of government funding. In total, to date, this council has received £1,382,257. Based on our best estimates this will cover the additional costs directly incurred as a result of this pandemic.</p> <p>Of more concern to this council is the loss of income from sources such as car parking. The government has announced a co-payment scheme that will compensate councils for irrecoverable income losses from sales, fees and charges. They expect Council's to absorb the initial 5% of losses compared to planned income from these sources. Thereafter, there will be a cost splitting arrangement where 75p in every pound of relevant losses will be compensated for by the government. There are still no details available about how the Government will operate the income support scheme, or how the 5% threshold will be calculated at the time of writing this response.</p> <p>There is also no further explanation of how local authorities will be able "to spread their tax deficits over three years rather than the usual one" – by tax deficits, I mean those arrears related to council tax and business rates.</p> <p>Our Executive Director Finance and Assets has written a comprehensive report on his assessment of the Council remaining a going concern. This report will be presented to the Audit, Compliance and Governance Committee on 22<sup>nd</sup> July 2020 and I would recommend that all members read this report which has already been published in the public domain. Furthermore, I will be presenting the 2019/20 financial outturn report alongside the first quarter budget monitoring report to Full Council on 29<sup>th</sup> July 2020. I anticipate this will answer any further questions Members may have on the councils financial resilience</p>
<p><b>10.</b></p>	<p><b>Question from Councillor Jonny Brownsteen to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>The reopening of pubs and bars is a much needed lifeline for them in a highly challenging time. Members will no doubt have been as pleased as I was to see the reopening go smoothly here, but may also share my concern that the overcrowding and disorder we have seen elsewhere in the country could lead to a reimposition of restrictions. A second wave or a second lockdown would be devastating for the many businesses in Cheltenham that have just begun to reopen. What steps can we take to protect the businesses here, that give Cheltenham's night time economy</p>

	its Purple Flag, from being closed down because of the poor behaviour of people in different parts of the country?
	<b>Response from Cabinet Member</b>
	<p>Our focus will be a local one and whilst welcoming the reopening of pubs and bars and the wider Cheltenham shopping experience, I share Councillor Brownsteen's concerns that the behaviour of a minority of people could provide the opportunity for a resurgence in cases of coronavirus and the imposition of new lockdown measures at either a local or national level.</p> <p>Striking the right balance between supporting businesses whilst at the same time restricting opportunities for viral transmission is a major challenge. Officers are working hard to provide professional advice to businesses about how they can operate safely, whilst also monitoring how this is working in practice. In support of this, the Gloucestershire local authorities have made a resourcing request through the county Health Protection Board to help boost our staffing arrangements as part of the £2.2 million allocated by government to Gloucestershire for implementing the Local Outbreak Management Plan.</p>
	<b>Supplementary question</b>
	Are we able to have conversations with central government with regard to lockdown measures and if so are we happy ?
	<b>Response from Cabinet Member</b>
	<p>We have been advised that future decisions on lockdown will be taken at a more local level, although the detail is not yet known</p> <p>In his view, the more locally a decision is made, the more likely it is to be the right decision.</p>
<b>11.</b>	<b>Question from Councillor Jonny Brownsteen to the Cabinet Member Corporate Services, Councillor Alex Hegenbarth</b>
	<p>The Standards Committee conducted its recent meeting with the sensitivity and professionalism that the circumstances demanded. I place on record my thanks to the committee members and its chair for the excellent example of this authority's credibility, at a time when that had been brought into disrepute. The Committee adjudicated that all members should receive diversity training. I concur with and support this decision, and ask the council what is the plan and the timescale, how will it be enforced, and how will its completion be reported back to the people we represent?</p>
	<b>Response from Cabinet Member</b>
	<p>The training brief is currently being developed and will be issued to prospective training providers by the end of July. During August we will evaluate the training proposals in consultation with the Chair of the Standards Committee with the aim of commencing training from mid-September. Group Leaders have the responsibility of ensuring members attend the training. Completion of the training will be reported back at a future Council meeting.</p>
<b>12.</b>	<b>Question from Councillor Chris Mason to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	<p>Residents living close to a many of the town's parks and gardens have had to endure unacceptable anti-social behaviour including playing loud music, general noise disturbance, littering, urinating in the parks' bushes and people's private property, drug dealing and taking, etc. All of which</p>

	<p>runs late into the night on a number of occasions. With regard to the recent reissuing of the Public Spaces Protection Order would the Cabinet Member agree that letting the previous one lapse was a serious error? Furthermore given the Police's limited resources, could they confirm the number of occasions where the council's officers have patrolled the parks and gardens between 8:00 pm and midnight, and how many fines have been issued?"</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The new Public Spaces Protection Order, which has a three year lifespan, was subject to statutory consultation before coming into force before the easing of lockdown measures relating to pubs and bars on Saturday 4<sup>th</sup> July. It mirrors the previous one in covering issues of dog control and drinking in public where this is happening antisocially. There was no publicity relating to the lapsing of the previous PSPO and signage has remained in place throughout. Given these circumstances, I do not believe that the PSPO lapsing was a contributory factor to the antisocial activities which took place in parks and gardens prior to the 4<sup>th</sup> July.</p> <p>The Council has now agreed an action plan in conjunction with the Police, which has increased Police oversight of parks and gardens experiencing the issues you have set out. Council staff have not been routinely patrolling the gardens between 8pm and midnight.</p>
	<p><b>Supplementary question</b></p>
	<p>At a recent meeting with the Police they explained that, in part, their response was limited due to a lack of a PSPO. Will the Cabinet Member please ensure that our officers liaise with the Police and are on site with them no matter what time of day?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>I do not believe that the issues in Montpellier Gardens were the fault of that order not being in place because it was not advertised. The Police have a wide range of powers to deal with public disorder in public places so he did not agree with what Cllr Mason was saying and had not been reported to him.</p>
<b>13.</b>	<p><b>Question from Councillor Louis Savage to the Cabinet Member Clean and Green Environment, Councillor Chris Coleman</b></p>
	<p>The Cabinet Member is aware of the issue of missed bin collections on Upper Park Street, often due to inconsiderate/illegal parking preventing UBICO crews from being able to gain access. Could he update me on any recent progress, and whether GCC Enforcement Officers are able to work collaboratively with UBICO crews to address this recurrent issue</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>I am aware of the issues inconsiderate parking is causing our waste and recycling collections and we are doing what we can to find solutions to these issues.</p> <p>The Council has posted various social media messages encouraging more considerate parking. This is a national problem worsened by lockdown and Recycle Now has included this issue in their guidance: <a href="https://www.recyclenow.com/news/2020-03-27-waste-recycling-collections-covid-19">https://www.recyclenow.com/news/2020-03-27-waste-recycling-collections-covid-19</a> and the government is sign posting people to this same message from their own COVID-19 advice around waste disposal: <a href="https://www.gov.uk/guidance/coronavirus-covid-19-disposing-of-waste">https://www.gov.uk/guidance/coronavirus-covid-19-disposing-of-waste</a></p>

Our records show that there were 6 occasions where recycling could not be completed in Upper Park Street this year so far: twice in February, once in April, once in May and twice in June.

Ubico normally put notices on car windscreens where a persistent problem with inconsiderate parking causes access issues however this has not proved effective in all cases, for example Gladstone Road.

We have contacted GCC Highways regarding this issue, as have some of the residents, and we have all been advised that nothing can be done about bad or illegal parking unless it becomes a police matter and in most cases the type of inconsiderate parking does not constitute a matter for the police.

GCC Highways have provided us with the following:

*The advice in the Highway Code (sections 242 & 243) places the responsibility with the individual driver to ensure that their vehicle is parked on the carriageway in such a position or location so as not to represent a hazard to other users of the network. If indiscriminate or inconsiderate parking is causing an obstruction or significant highway safety issues then in the first instance this would be a matter for the Police to deal with, who have powers under The Road Traffic Act.*

Another alternative which is often requested by members of the public and in fact Ubico crews themselves is double yellow lines however the following information from GCC Highways explains why this isn't an easy fix to this problem:

*Double yellow lines (or any waiting restriction) restrict the use of public highway they require a public consultation and an accompanying legal order to make them enforceable. A traffic regulation order requires the scheme to be subject to a public formal consultation which involves engagement with local residents and businesses as well as statutory consultees such as Police, Fire and Ambulance services as well as other key groups. As part of the consultation we are required by law to consider all feedback received and resolve any substantive objects which may come to light. If objections cannot be resolved we have to make a decision to abandon the order, approve using delegated authority or refer to a TRO panel which is made up of trained members who hear the case for and against and make a recommendation whether the order should be progressed. The process is extremely resource intensive in terms of officer hours, input, and processing from our legal team. The cost for a typical order is in the region of £10000 - £15000, however in some cases can be significantly higher. We have to consider the level of impact and benefit in terms of safety against such an outlay.*

The Council, working closely with Ubico, will continue to work with residents to find solutions to this issue which is worsened by lockdown and more people working from home but I would urge all residents to park considerately to avoid inconvenience.

	<b>Supplementary question</b>
	On 6 occasions this year bins have been missed on Upper Park Street due to inconsiderate parking. As this situation is becoming untenable for residents, can Ubico liaise with GCC enforcement and PCSOs to resolve the matter ?
	<b>Response from Cabinet Member</b>
	The Cabinet Member acknowledged the issue and reported that this was not the only street where collections were missed due to inconsiderate parking. This was frustrating for crews and residents alike. He was committed to work with Cllr Savage, Cllr Babbage and Ubico to address this.
<b>14.</b>	<b>Question from Councillor Louis Savage to the Cabinet Member Corporate Services, Councillor Alex Hegenbarth</b>
	Given the large size of the Council chamber and recently installed webcasting equipment, when does he envisage resuming meetings, either in whole or in part, within the Municipal Offices? Does the Cabinet Member believe that doing so would help create confidence that it is safe to return to Cheltenham town centre, and act as a sign of much needed support for our high street?"
	<b>Response from Cabinet Member</b>
	We are currently following government guidance in terms of social distancing with the restrictions on the numbers of persons that can meet indoors preventing us from holding in person committee meetings. We are also following the specific legislation relating to virtual committee meetings.  Whilst resuming public meetings in the Municipal Offices is our aspiration, and we are looking at how this could work in practice, our primary focus is on the efficient discharge of the democratic function. In the absence of legislation in relation to hybrid meetings, and the technological requirements to facilitate them, particularly in the Council Chamber, virtual meetings in their current form meet our democratic requirements.
<b>15.</b>	<b>Question from Councillor Max Wilkinson to the Leader, Councillor Steve Jordan</b>
	The long-awaited extension of the Honeybourne Line to Lansdown Rd represents a key sustainable transport project for the town. It has been proposed for almost as long as I have been alive. The latest update received was that funding was short by around £300,000 as a result of an overspend on the car park works and the uncertainty over GWR's franchise. Since then, the franchise has been extended and reassurances have been given that money may be found from various sources. What update can the leader of the council give on discussions with GWR, the county council, the LEP and others?
	<b>Response from Cabinet Member</b>
	The GWR franchise extension was a most welcome step given the complexities of this scheme; the land in question, south of the Trimnasium remains in the control of Network Rail as it is outside of the franchise area, but the pedestrian-cycle extension will be delivered by GWR. I am pleased to advise that since the franchise renewal, GWR have been much more positive about delivery and I understand GWR have had an opportunity to bid to DfT to address the funding shortfall. We



	<p>await formal confirmation of the additional funding but as GWR are progressing delivery steps we take that as a positive indication. Additionally Network Rail have begun the process for the delivery of the Access for All improvements, notably the platform lifts.</p>
<b>16.</b>	<p><b>Question from Councillor Max Wilkinson to the Leader, Councillor Steve Jordan</b></p>
	<p>The consultation on the West Cheltenham transport improvements was launched by Gloucestershire County Council with social media postings promoting investments in cycling and walking infrastructure. However, the consultation gives almost no indication of what interventions are being made. Questions have been raised with the county council, but no reply has been received. What can we do to find out more about the cycling and walking infrastructure? The LEP is promoting this scheme. Therefore, will the leader raise this issue with the LEP in his role as a member of the LEP board and report back in his verbal report to the next overview and scrutiny meeting?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>On 9 June GFirst LEP approved the business case and hence funding for phases 3 &amp; 4 of West Cheltenham Transport Improvement Scheme. This is the phase from Arle Court to Lansdown Bridge (and the connection with the GWR pedestrian-cycle improvement) with a focus upon walking, cycling and public transport connectivity. These phases are being accelerated from the original timetable and consequently the details are sketchy as further feasibility work for the final design is yet to be undertaken.</p> <p>At the same GFirst LEP meeting approval was also given to spend £1.6m (freed up from a scheme that didn't proceed) on the West Cheltenham Walking and Cycling Improvements Scheme. This is to proceed in parallel with the WCTIS phases 3 &amp; 4 mentioned above.</p> <p>CBC are represented on the GCC led WCTIS stakeholder group and have made strenuous efforts to circulate information when it is available to both the business and wider community via Councillors. I believe that liaising with the GCC stakeholder group (to which the LEP also is invited) is the best route to inform the design.</p> <p>I am happy to update the O&amp;S Committee as requested and keep all members apprised of developments as GCC progress through the various design stages. I will encourage further engagement with key groups such as the cycling forum.</p>
<b>17.</b>	<p><b>Question from Councillor Max Wilkinson to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>Gloucestershire County Council has been allocated money for sustainable transport projects that enable social distancing. The county's bid was improved by an ambitious list of projects drawn up by Cheltenham Borough Council. Can the cabinet member for development give an update on the likely schedule for the implementation of these projects?</p>

	<b>Response from Cabinet Member</b>
	Guidance was provided to GCC on 10 <sup>th</sup> July on Tranche 2 funding with a deadline to submit applications to DfT by 7 <sup>th</sup> August. We have been advised that the guidance provided is very prescriptive and currently GCC are reviewing proposals across the county in the context of that guidance. We have made regular requests for feedback on the proposals submitted for Cheltenham.
<b>18.</b>	<b>Question from Councillor Max Wilkinson to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	The county council's statements on the receipt of tranche one Covid social distancing funding do not make it clear whether tranche one monies are paying for schemes already implemented, or schemes yet to be implemented. Does the cabinet member for development know which it is?
	<b>Response from Cabinet Member</b>
	The tranche 1 funding paid for the schemes already implemented by GCC, for Cheltenham this was the Bath Road scheme.
<b>19.</b>	<b>Question from Councillor Max Wilkinson to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	The county council has been awarded government funding 'in excess of its indicative amount' for Covid social distancing measures. However, most of the implemented schemes so far look like temporary roadworks. One such example is Regent Street. It is a key town centre area of café culture, but some tables and chairs appear to be arranged in the gutter alongside roadworks. Could the cabinet member for development confirm when a better quality of street furniture will be installed?
	<b>Response from Cabinet Member</b>
	The Regents Street intervention has been funded not by GCC but from the CBC allocation of Reopening the High Street Safely (RHSS) fund. The criterion around this funding was very explicit in that interventions must be temporary and could not take the form of planters etc. hence why the water filled barriers were installed which provide a temporary, but robust barrier to support the activities on Regents Street. However, as of this week the MHCLG guidance has been reviewed and we have been advised that the RHSS funding can be used on planters, but only if they are temporary and part of a transport intervention.
	<b>Supplementary question</b>
	If going to have interventions to improve the look and feel of our town centre and encourage walking and cycling as well as improve business in the town, there should be good design. Our trial schemes should be of high quality design, e.g. wooden decking rather than looking like temporary road works.
	<b>Response from Cabinet Member</b>
	Agreed that this should be the highest quality of improvements, however the council was seriously constrained by central government financial regulations and rules in terms of what constitutes temporary work.
<b>20.</b>	<b>Question from Councillor Max Wilkinson to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b>
	The social distancing measures in Regent Street lack ramps to enable

	<p>wheelchair users and buggies to pass the area on that side of the road. Can the cabinet member for development advise us on how we can ensure the county council takes seriously its responsibilities to allow access for disabled people and parents with young children?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The dropped kerbs on Regents Street that fall with the Regents Street intervention have been maintained wherever possible and gaps provided within the water filled barriers to maintain access. In addition, no interventions have been placed on the opposite footpath or carriageway which provides a suitable alternative for users. Now the intervention is in place the Townscape Team are reviewing the scheme together with the Licensing Team providing clear guidance to the businesses operating with the space.</p> <p>It is accepted that by the very temporary nature of the intervention and the need to accommodate vehicles, pedestrians and businesses that the solutions will not be perfect, but we are trying to be pragmatic as we respond to COVID-19 recovery.</p>
<b>21.</b>	<p><b>Question from Councillor Max Wilkinson to the Cabinet Member Development and Safety, Councillor Andrew McKinlay</b></p>
	<p>The chief executive of the Cheltenham Development Task Force has stepped down and I'm sure we would like to thank Jem Williamson for his hard work for our town over many years. We hear that the organisation will now deal with the Covid-19 recovery. Given that the council has declared a climate emergency, will the cabinet member for development confirm that the Task Force will be placing that matter at the heart of its work? Will the Development Task Force commit to appointing at least one member with expertise in climate change and the environment?</p>
	<p><b>Response from Cabinet Member</b></p>
	<p>The Cheltenham Development Taskforce has played an important role in the regeneration activities of the town centre and we thank both Jeremy Williamson and the chair of the Task Force Graham Garbutt for providing leadership together with the wider Task Force membership. The task Force formally closed at its July meeting.</p> <p>A new Economic Recovery Task Force is being established as an 18 month task-finish group to focus on the challenges arising from COVID-19. I am pleased to announce that Diane Savory OBE has agreed to chair the new Task Force and its membership is currently being reviewed. Green Growth will certainly be a priority outcome for our economic recovery and we will be identifying the skill sets that will support that.</p>
<b>22.</b>	<p><b>Question from Councillor Max Wilkinson to the Leader, Councillor Steve Jordan</b></p>
	<p>Prior to the Covid-19 outbreak, the leader and the BID were working closely to encourage landlords of empty retail properties to take a more realistic view of rents. It was reported that the response to a letter to retail landlords was disappointing, with most not bothering to reply. Given the importance of the high street to our local economic recovery, can the leader give an update on communications with retail property landlords?</p>

	<b>Response from Cabinet Member</b>
	The Planning team are supporting the activities of the BID Landlord group and certainly the impacts on retailing will be a key priority of the Economic Recovery Task Force. The Planning White Paper is expected imminently and we are anticipating changes to be identified within this that will be focussed on the High Street and the future of retailing. Generally there has been positive support from local landlords but engagement has been more difficult where that is not the case.
<b>23.</b>	<b>Question from Councillor Max Wilkinson to the Cabinet Member Corporate Services, Councillor Alex Hegenbarth</b>
	The Standards Committee has recommended that mandatory training in matters relating to diversity be given to all members. Can the appropriate cabinet member give an update on when this will be delivered?
	<b>Response from Cabinet Member</b>
	The training brief is currently being developed and will be issued to prospective training providers by the end of July. During August we will evaluate the training proposals in consultation with the Chair of the Standards Committee with the aim of commencing training from mid-September. Group Leaders have the responsibility of ensuring members attend the training. Completion of the training will be reported back at a future Council meeting
<b>24.</b>	<b>Question from Councillor Max Wilkinson to the Cabinet Member Housing, Councillor Peter Jeffries</b>
	Will the cabinet member for housing give an update on our £100million housing investment plans?
	<b>Response from Cabinet Member</b>
	<p>Our plans to invest £100m to provide quality homes and promote sustainable communities are progressing well. The delivery of new homes remains a key priority for CBC and CBH and forms part of our economic recovery plan to invest in the town and provide much needed, high quality homes. The emerging 'New Homes and Regeneration Strategy' is really taking shape and outlines our broader strategy for increasing housing across a variety of tenures (affordable and private rented) in Cheltenham in addition to a continued focus on our existing stock and significant regeneration plans. The strategy will ensure we are focused on delivering a 'step change' in the provision of new homes up to 2025. This strategy will be supported by a comprehensive Communications Plan which we will use as an opportunity to showcase our achievements along the way.</p> <p>Despite the recent challenges resulting from the COVID-19 pandemic, we have made significant progress over the last few months including the following:</p> <ul style="list-style-type: none"> <li>• The sites at Monkscroft Villas and Holy Name Hall are now back up and running following a short closure due to COVID-19. These two sites will be completed within the next year to provide 35 new affordable homes for shared ownership and for rent.</li> <li>• We have fostered new relationships with a variety of agents and developer partners which has led to us securing 33 new homes</li> </ul>

	<p>across three S106 sites.</p> <ul style="list-style-type: none"><li>• We completed 27 individual property acquisitions last year and are working to deliver a further 25 this financial year, demonstrating our ability to break the mould and bring about the delivery of new affordable housing in innovative ways.</li><li>• We have agreed Heads of Terms to acquire two sites which collectively will provide a further circa 90 new homes.</li><li>• The activity above equates to over £35m of investment to provide in excess of 200 homes.</li><li>• We are now in the position to reinvigorate our private rented venture. Much work has already been done to prepare ourselves for implementation, including the development of vibrant new branding to ensure that our enterprise has a great look and feel ahead of delivery. We are currently assessing the impact of Covid-19 on the market with a view to acquiring our first private rented home in the coming months.</li><li>• We continue to pursue other new opportunities and now have an active pipeline of opportunities that we are continuing to assess and progress.</li></ul> <p>We are building <u>#qualityhomes</u> &amp; <u>#thrivingcommunities</u> as part of <u>Cheltenham Borough Council</u> 's £100m housing investment plan. <u>#HomesForCheltenham</u></p> <p>As part of the Golden Valley Development, CBC is currently undertaking the process to select a development partner. We are seeking a dialogue with bidders to explore options for the large scale delivery of private and affordable homes. Based on the projections set out in the draft Supplementary Planning Document we could see the delivery of higher densities potentially exceeding 600 homes on the council's land interests. . The use of Housing Investment Strategy and HRA funds could be used to assist in delivery the vision.</p>
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**9. PETITION - WE CALL FOR URGENCY ON OUR CLIMATE EMERGENCY**

The petition organiser, Yolande Booyse, presented the petition to members.

She explained that the petition had collected 750 signatures expressing concern over climate change and demanding real action. She added that the next crisis after Covid-19 would be the climate, and our approach to tackling this needed to change. The post-Covid world would offer an opportunity to leverage momentum, and both on a national and global scale, financially supporting green economies was a real possibility. Attempting to continue 'business as usual' was no longer appropriate, so the council should rethink its response to a carbon neutral pledge. She asked members to use the debate to address Cheltenham residents about how Covid-19 had changed their climate change response, including updating them on the progress of appointing a dedicated Cabinet Member and dedicated team for climate change.

The Cabinet Member Corporate Services and thanked the organiser for her presentation. He stressed that community support would be an essential part of

tackling the council's ambitious climate change targets, and welcomed the petition for highlighting the growing support within the town for reducing their carbon footprint.

He reported that the Executive Director People and Change, Darren Knight, and Director of Environment, Mike Redman, had recently met with local groups to discuss the council's plans going forward and boost community involvement. The 'Carbon Neutral Cheltenham – Leadership Through Stewardship' report brought before Council last October laid out a roadmap of actions needed to reduce the town's net carbon footprint to 0 by 2030. He acknowledged that this was a challenging deadline, twenty years ahead of central government's goal of 2050, and meaningful steps must be taken in order to achieve it.

He added that the impact of Covid-19 on climate policy could not be overstated, as it had significantly affected the council's finances, but it had not prevented important projects going forward, while the shift to remote working had changed commuting patterns in the borough. He stressed that the council was doing all it could, and remained committed to the pledge of going carbon neutral by 2030.

One member cited climate change as the key problem faced by the world at the moment, alongside Covid-19. She praised the council's continuous climate change projects, as well as the work that went on quietly in the background to make a difference and keep people safe.

One member noted that the sentiment behind the petition was likely shared by the majority of people in the town, and indeed across the country. He stressed that community involvement was key, and endorsed the inclusion of partners and community groups in the process.

One member acknowledged that alleviating the climate crisis was a long and difficult road, but the council's progress was good. He suggested that the council could declare areas outside all schools in the borough as 'no idling' zones, in order to improve air quality for schoolchildren. This could be enforced by council officers and supported by clear posters, and could then be widened to include more of the borough if successful. The Cabinet Member responded that he would be happy to accept this, and suggested that they explore the topic in more detail to work out the most effective solution. One member noted that the county council was working on a similar program.

One member asked for clarification about the size of Cheltenham's Air Quality Management Area. The Director of Planning responded that the AQMA previously covered the whole borough, but had been condensed to cover the inner ring road area between St George's Road and Gloucester Road.

One member noted that many local authorities were seeking to get climate change back on the agenda as part of their Covid-19 recovery strategies, citing Oxford City Council's plan to ban petrol cars from the city centre by 2030. He warned against diluting policy due to the council's financial difficulties,

suggesting that failing to act on climate change would be far more expensive in the long run.

**RESOLVED THAT**

**The actions which the authority has taken to date and those proposed, as set out in Section 3 be noted.**

**10. CHELTENHAM PLAN - ADOPTION REPORT**

The Leader of the Council introduced the report, noting that the Cheltenham Plan formed part of the Joint Core Strategy. He acknowledged that the Local Plan had been a long process, starting back in 2012, and thanked Members and officers involved for their contributions. The plan sought to strike a balance between providing jobs and affordable homes while protecting green spaces, and continuously consulting the public on its key aspects. He emphasised a number of key points, including the protection of green spaces by granting formal LGS status to 16 sites around the borough, and noted that the process of a second JCS was in its early stages.

The following points were raised by Members :

- the report was welcomed as an essential part of planning out the coming years and ensuring that the council did not stand still. Along with the JCS, it should give the town what it needs, particularly with regard to new houses built to a high standard and new employment.
- some Members had campaigned for some 40 years to protect the Leckhampton Green fields, and were delighted to see it formally designated as an LGS. Free, accessible recreation was a key part of mental health, especially in urban areas, while the fields also provide essential services to the ecosystem by absorbing pollution and floodwater. He thanked planning officers and the Leader of the Council for their work on the issue.
- one Member spoke in his capacity as the council's representative on the Cotswold Conservation Board, and welcomed the level of protection afforded to the Cotswold AONB.
- a number of individuals and organisations were thanked for their work behind the scenes, but concern was expressed about future developers' potential lack of understanding of sustainability. Sustainability must be considered according to a wide range of factors, including the socioeconomic consequences for people living in the area and environmental implications. If Cheltenham could put these considerations front and centre of any future interaction with developers, the town and its residents would benefit immensely.
- disappointment was expressed by one Member that the Oakhurst Rise site was not included among the 16 given LGS status, despite fulfilling many of the criteria involved.
- one Member acknowledged that this plan sought to strike a balance between preserving essential aspects of the town and allowing it to

grow. He stressed that officers had sought to distribute LGS status as widely as possible, having considered 92 sites originally. Interventions from planning inspectors eventually whittled this figure down to 16. He reassured Members that the lack of LGS status did not mean that the site was not protected.

The Leader of the Council summed up the key points and thanked Members for their contributions.

### **RESOLVED THAT**

- 1. the adoption version of the Cheltenham Plan at Appendix 4 to this report be adopted, as part of the Council's statutory development plan**
- 2. the amendments (maps and text) to the adopted Proposals Maps as set out within Appendix 5 and 6 to this report be adopted.**
- 3. authority be delegated to the Director of Planning, in consultation with the Leader of the Council to make minor spelling, grammatical, cross-referencing or typographical errors and presentational changes (including the addition of a Foreword) to the Cheltenham Plan and accompanying policies maps prior to publication**

### **11. WEST CHELTENHAM CYBER CENTRAL GARDEN COMMUNITY SUPPLEMENTARY PLANNING DOCUMENT**

The Leader introduced the Golden Valley Development Supplementary Planning Document (SPD) which outlined the opportunity to deliver a national exemplar, world class cyber facility, as well as being a highly accessible and sustainable development. The Leader noted that the SPD at Appendix 2 was the correct version but that the covering report had been amended. The recommendation had been amended to seek adoption rather than approval by the council. He explained that the SPD covered the area in the JCS, as well as the safeguarded area and emphasised the need for a masterplan in place for this exciting opportunity for the town.

The national support that this project had garnered emphasised the importance of the site and as it crossed into Tewkesbury Borough Council (TBC) boundaries, there had been close collaborative working which would see TBC consider this very same document on the 28 July. Both authorities needed to adopt this SPD for it to come into force. Widespread consultation had been undertaken on the SPD, informally at the end of last year and then formally in January 2020 for a period of 5 weeks. This report and accompanying SPD took account of stakeholder and public engagement together with representations received during the statutory consultation and a full schedule of comments received and subsequent amendments to the SPD was provided at Appendix 5, but the Leader noted that some viewpoints were diametrically opposed and therefore impossible to draft a document that addressed these opposing views. Once approved by both CBC and TBC, the SPD would become a material consideration to the determination of future planning applications.

The site was next door to GCHQ and cyber was already important for the town, with Cheltenham being second only to London in terms of the level of cyber



business. This represented a fantastic opportunity, not least because it could benefit the entire community, some areas of which had higher levels of deprivation and as such it was vitally important that it benefited the whole community in terms of jobs, affordable housing, as well as the climate change agenda. At this stage he noted the 'Excellent' accreditation by Building with Nature. He did ask that members, when looking development plans, be mindful of the fact that CBC owned only part of the site that was being talked about, not all of it, with Severn Trent the owners of some parts.

In closing, he highlighted that Gloucestershire County Council had secured £22m of government funding, the Local Enterprise Partnership (LEP) had re-allocated £1.6m to ensure that all cycling routes were connected and Great Western Railways were in the process of confirming funding for a cycling route out of the station and to this site. Finally, he acknowledged the importance of community involvement and though he pledged that this would continue, he was not yet sure what this would look like going forward.

The Leader, with support from the Director Planning, provided the following response to a member question regarding housing numbers at this site. They explained that the JCS allowed for 1100 houses on this site, based on a simple calculation, however, following a site capacity study as part of the more detailed master planning, this figure is now estimated at 2370. The reference Cheltenham Borough Homes had made to 3000 homes included 1354 that could come forward on the safeguarded land, though this would require a review of the JCS.

The ward member for Hester's Way, whilst welcoming the document and the exciting opportunities ahead, was concerned that higher numbers of houses would result in lower eco standards, or prove unsustainable for developers in terms in the financials. She also went on to endorse the comments of the Leader in relation to the importance of community engagement.

In summing up, the Leader acknowledged that it was essential to retain some green space on this site and reiterated his commitment to involving local communities in the process.

### **Upon a vote it was RESOLVED THAT**

- 1. The Golden Valley Development Supplementary Planning Document (SPD) as provided at Appendix 2 be adopted.**
- 2. Authority be delegated to the Director of Planning to make any minor editorial changes to the approved SPD in terms of formatting, presentation and accuracy prior to final publication.**

### **12. PLANNING COMMITTEE SIZE**

The Deputy Chief Executive, Tim Atkins, introduced the report which sought approval to reduce the size of the Planning Committee from 11 to 15. He reminded members that the Constitution Working Group (CWG) was asked to review the number of members on Planning Committee in order to ascertain if a smaller number might increase the effectiveness of the decision-making

process. The CWG met in January 2020 and supported the proposal, Group Leaders were then consulted and approved the change which was noted by Council when considering changes to the Constitution at its meeting on 17 February. The plan that was this would then be formally approved at the Annual and Selection Council in May 2020 when establishing and appointing to Planning Committee, however, due to the Covid 19 outbreak and the subsequent rescheduling of the Borough Elections until May 2021, the Annual and Selection Council was cancelled. The Deputy Chief Executive explained that the proposal was based on best practice advice that encouraged smaller committees as tending to offer greater consistency in decision making; lower costs to run and better attendance at meetings and hoped that members would support the recommendations.

In response to a member question, the Deputy Chief Executive, along with the Director of Planning, explained that reducing costs was not the main driver for the proposals; but rather that it represented best practice. Whilst being quorate had never been an issue, Planning Committee meetings were never attended by all 15 members. The quorum was currently 8 (members) and were the committee size to reduce to 11 this would in turn reduce to 6.

A number of Planning Committee members, both past and present, stressed the importance of site visits (Planning View), which they felt were poorly attended due to being held during the day, whilst accepting that it would be difficult to undertake in the evenings for some 6 months of the year. Councillors were reminded that ward members were able to attend meetings and address the Committee where an application affected their ward and of the substitution process that was in place, though it was stressed that there was a requirement for substitutes on Planning Committee to have undertaken training and have attended one in three meetings.

Members who spoke against the proposal to reduce the size of the committee, did so because they were concerned that a reduction in members would result in nothing more than reduced diversity of views and were sceptical about the assertion that decisions would be more consistent. Some of these Members urged caution given the pace of unitary discussions, a decision on which would result in a larger, farer ranging area, with a precedent set by having reduced the size of the committee at this stage.

Those that spoke in support of the proposal agreed that a reduction in size could result in Members having the opportunity to gain a greater understanding of planning regulations and give more in-depth consideration to applications, which would result in more consistent and effective decision-making.

The Deputy Chief Executive thanked Members for what had been an interesting debate and noted the efforts that the CWG had put into the review. He suggested that the greatest challenge in terms of the Planning Committee was the requirement for members who were fully trained and experienced and that a larger committee size made this more challenging to achieve. CBC were at the higher end of members compared to other authorities and this reduction did not aim to stifle opposing views or differences of opinion, but instead would ensure the consistent application of planning policy in terms of decisions.

Upon a vote it was

**RESOLVED THAT**

- 1. The size of Planning Committee be reduced to 11 seats.**
- 2. The appointments to Planning Committee in accordance with the nominations contained in the table (as circulated) be approved.**

**13. APPLICATIONS FOR PAVEMENT LICENCES UNDER THE BUSINESS AND PLANNING BILL 2020 AND RESPONSIBILITIES FOR FUNCTIONS**

The Deputy Chief Executive explained that the Business and Planning Bill 2020 (“the Bill”) once in force, would introduce a number of changes to potentially promote post-lockdown economic recovery and growth. Part 1 of the Bill included provisions that would enable the operators of licensed premises, via a new standalone mechanism, to secure for a limited period, a “Pavement Licence”. The new Pavement Licences would allow additional outdoor space to be lawfully licensed and used by premises. Under the provision an application must be determined by a local authority within 7 days of receipt of the application, this reducing the consultation period, as well as the ability of the authority to refuse. The proposed delegation would allow the Director of Environment, in consultation with the vice-chair of the Licensing Committee, to determine an application for a Pavement Licence under the new legislation. It was also noted that if necessary the ability to revoke a licence should also be delegated to the Director of Environment. A slight amendment to the recommendation was proposed in that ‘and revoke’ would be added after ‘determine applications’.

The Licensing Team Leader, gave the following answers to member questions:

- Under the Bill there is no statutory appeal process, but the draft guidance states that councils may wish to consider the scope for an internal review process. To this end, an applicant wishing to appeal a decision to refuse consent could apply to the Miscellaneous Licensing Sub-Committee. The Chair felt that it was more appropriate to preside over any such appeal, rather than being involved in the original decision(s) and it was noted that there were two vice-chairs for the Licensing Committee.
- A local authority can grant a Pavement Licence subject to conditions that it considers reasonable but in any event such licences will be deemed to be subject to a “no-obstruction condition” and condition would remain and if following a site inspection it was considered that it would cause an obstruction, the matter would be referred to the Director for determination and possible refusal.

At this stage the Mayor sought agreement from members that the meeting should continue beyond four hours in duration and the no member objected. The meeting continued.

The Licensing Team Leader, continued to respond to member questions:

- There had been no amendments to the Highways Act 1980 and when the Bill was repealed (currently planned for September 2021) applications would be made under the Highways Act 1980.
- In response to a further question, the Business Support and Licensing Team Leader assured members that they would be consulted on applications as ward councillors as they had previously, though admittedly with less time to respond, 5 working days from 28 days. He noted that if the authority does not determine an application within the determination period, the licence would be deemed to have been granted for a year.

The Leader paid tribute to the Licensing and Planning Teams at CBC, as the concept for this Bill had been spearheaded in Cheltenham. He also acknowledged that some of the temporary measures put in place did not look necessarily look as good as they could, but as an authority we had got out and done them to enable businesses to reopen as quickly as possible.

A member felt that the authority should have an Accessibility Champion who could represent and advocate on behalf of people with visual impairments and wheelchair users, etc, in terms of decisions such as these. The Cabinet Member Finance interjected and confirmed that in her previous role, as Cabinet Member Healthy Lifestyles, she had established a Disability Forum and applications were taken to this group for feedback. In her experience, having consulted the Forum during the Changing Places discussions, it was clear that it would never be possible to meet the needs of every single individual and as an authority we could simply do our very best.

**Upon a vote it was RESOLVED**

- 1. That the Director of Environment, in consultation with the vice-chair of the Licensing Committee, be given delegated authority to determine applications and revoke Pavement Licences under the Business and Planning Act 2020.**
- 2. That the Borough Solicitor be authorised to make any textual or other amendments which are necessary to ensure the accuracy, consistency and legality of the Constitution when incorporating the revisions referred to in 1. above.**

**14. NOTICES OF MOTION**

There were none.

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

None.

Roger Whyborn  
**Chairman**

**Council**

**Wednesday, 29th July, 2020  
4.00 - 5.25 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Roger Whyborn (Chair), Sandra Holliday (Vice-Chair), Victoria Atherstone, Matt Babbage, Dilys Barrell, Angie Boyes, Nigel Britter, Jonny Brownsteen, Chris Coleman, Stephen Cooke, Iain Dobie, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Karl Hopley, Steve Jordan, Paul McCloskey, Andrew McKinlay, Tony Oliver, Dennis Parsons, John Payne, Louis Savage, Diggory Seacome, Malcolm Stennett, Jo Stafford, Max Wilkinson, Suzanne Williams and David Willingham

**Minutes**

- 1. APOLOGIES**  
Apologies were received from Councillors Baker, Barnes, Clucas, Hay, Hegenbarth, Horwood, Jeffries, Mason and Sudbury.
- 2. DECLARATIONS OF INTEREST**  
There were no declarations of interest.
- 3. MINUTES OF THE LAST MEETING**  
The minutes of the meeting held on 20<sup>th</sup> July 2020 would be considered at the next meeting of Council.
- 4. COMMUNICATIONS BY THE MAYOR**  
The Mayor confirmed that there were very few ceremonial civic events at the moment, although there were a couple of socially distanced appointments in the diary. He reported that the Mayor's food bank had donated £2500 to the scheme due to launch on 1<sup>st</sup> August to ensure that children who normally have free school meals would receive a hot meal over the summer holidays. The fund also made donations to assist people who were previously homeless buy hardware goods for their new accommodation.
- 5. COMMUNICATIONS BY THE LEADER OF THE COUNCIL**  
The Leader recognised all the efforts by staff involved in the holiday food scheme, and reiterated his thanks to all officers for all the efforts that they had made and continued to make. He added that Councillor Wendy Flynn would be joining the Licensing Committee.
- 6. TO RECEIVE PETITIONS**  
There were none.
- 7. PUBLIC QUESTIONS**  
There were no public questions.

## 8. MEMBER QUESTIONS

<b>1.</b>	<b>Question from Councillor Matt Babbage to Cabinet Member Finance, Councillor Rowena Hay</b>																																																											
	Please could you provide an updated summary of the council's investment property portfolio, including breakdown by property type and industry/commercial sector.																																																											
	<b>Response from Cabinet Member</b>																																																											
	<p>Thank you for your very appropriate questions during this time which formed part of a useful discussion at the Audit, Compliance and Governance Committee last week.</p> <p>I trust that the responses will help reduce any concerns Members may have but as I am sure everyone is aware, these are very uncertain times.</p> <p>Here is the breakdown of our 'investment' portfolio:</p> <p><b>General Fund</b></p> <table border="1"> <thead> <tr> <th style="background-color: #ffff00;">Address</th> <th style="background-color: #ffff00;">Property type</th> <th style="background-color: #ffff00;">Further simplification of pro</th> </tr> </thead> <tbody> <tr> <td>75 Priors Road</td> <td>Takeaway/ restaurant</td> <td>Food and beverage</td> </tr> <tr> <td>77 Priors Road</td> <td>Takeaway</td> <td>Food and beverage</td> </tr> <tr> <td>79 Priors Road</td> <td>Hair dressers</td> <td>Retail</td> </tr> <tr> <td>Regent Arcade - CBC Lease (Freehold - Land)</td> <td>Retail (Leasehold)</td> <td>Leasehold</td> </tr> <tr> <td>Cheltenham Enterprise Centre (multi let units)</td> <td>Industrial Park</td> <td>Industrial Park</td> </tr> <tr> <td>211 High Street</td> <td>Retail</td> <td>Retail</td> </tr> <tr> <td>Sainsbury's, Prior Road</td> <td>Supermarket</td> <td>Retail</td> </tr> <tr> <td>53-57 Rodney Road (multi let unit)</td> <td>Office</td> <td>Office</td> </tr> <tr> <td>Ellenborough House (multi let units)</td> <td>Office</td> <td>Office</td> </tr> <tr> <td>Delta Place aka 127 Bath Road</td> <td>Office</td> <td>Office</td> </tr> </tbody> </table> <p>Overview of the General Fund Investment portfolio: 2 Food and Beverage, 3 Retail, 1 Leasehold, 1 Industrial Park (this comprises 4 occupied units, and a further 3 units are nearing completion), and 3 offices.</p> <p><b>Investment HRA</b></p> <table border="1"> <thead> <tr> <th style="background-color: #ff8c00;">Address</th> <th style="background-color: #ff8c00;">Property type</th> <th style="background-color: #ff8c00;">Further simplification of pro</th> </tr> </thead> <tbody> <tr> <td>1 Rowanfield Exchange</td> <td>Dry Cleaners</td> <td>Retail</td> </tr> <tr> <td>6 Rowanfield Exchange</td> <td>Betting Shop</td> <td>Retail</td> </tr> <tr> <td>11 Rowanfield Exchange</td> <td>Cash for clothes</td> <td>Retail</td> </tr> <tr> <td>12 Rowanfield Exchange</td> <td>Community use</td> <td>Community use</td> </tr> <tr> <td>18/19 Rowanfield Exchange</td> <td>Supermarket</td> <td>Retail</td> </tr> <tr> <td>24 Rowanfield Exchange</td> <td>Takeaway</td> <td>Food and beverage</td> </tr> <tr> <td>52 Windermere Road</td> <td>Pharmacy</td> <td>Retail</td> </tr> </tbody> </table>			Address	Property type	Further simplification of pro	75 Priors Road	Takeaway/ restaurant	Food and beverage	77 Priors Road	Takeaway	Food and beverage	79 Priors Road	Hair dressers	Retail	Regent Arcade - CBC Lease (Freehold - Land)	Retail (Leasehold)	Leasehold	Cheltenham Enterprise Centre (multi let units)	Industrial Park	Industrial Park	211 High Street	Retail	Retail	Sainsbury's, Prior Road	Supermarket	Retail	53-57 Rodney Road (multi let unit)	Office	Office	Ellenborough House (multi let units)	Office	Office	Delta Place aka 127 Bath Road	Office	Office	Address	Property type	Further simplification of pro	1 Rowanfield Exchange	Dry Cleaners	Retail	6 Rowanfield Exchange	Betting Shop	Retail	11 Rowanfield Exchange	Cash for clothes	Retail	12 Rowanfield Exchange	Community use	Community use	18/19 Rowanfield Exchange	Supermarket	Retail	24 Rowanfield Exchange	Takeaway	Food and beverage	52 Windermere Road	Pharmacy	Retail
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93 Tewkesbury Road	Post Office	Retail
94 Tewkesbury Road	Takeaway	Food and beverage
95 Tewkesbury Road	Off Licence	Retail
96/97 Tewkesbury Road	Betting Shop	Retail
8 & 10 Hesters Way Road	Supermarket	Retail
16-18 Hesters Way Road	Community use	Community use
3/4/5 Lynworth Exchange	Supermarket	Retail
19 Lynworth Exchange	Beauty Salon	Retail
20 Lynworth Exchange	Takeaway	Food and beverage
21 Lynworth Exchange	Hair dressers	Retail
34 Grasmere Road, Hatherley	Takeaway	Food and beverage
35 Grasmere Road, Hatherley	Dental surgery	Health Service
266 High Street	Tanning salon	Retail
272/282 High Street (freehold land)	Retail	Retail
<p>Overview of the HRA investment portfolio: 4 Food and Beverage, 14 Retail, 2 Community Use, and 1 Health Service.</p> <p>HRA properties are mainly small units forming parts of parades in the heart of residential areas (not town centre). Town Centre units are considered prime retail, town centre fringes are considered to be secondary units, therefore these units would be considered as tertiary units.</p> <p>What is evident from even a quick glance is that we have an extremely <u>diverse</u> investment portfolio.</p>		
<b>2.</b>	<b>Question from Councillor Matt Babbage to the Cabinet Member Finance, Councillor Rowena Hay</b>	
	What assessment has been made of the risks to and valuations of the council's investment property portfolio?	
	<b>Response from Cabinet Member</b>	
	<p>The Councils surveyors who are responsible for the Asset Valuations and act on behalf of the Council as Portfolio advisors have been working very closely with the finance team in regards to the reporting of Asset Valuations in light of COVID 19. We have been in communication and have been following guidance issued by both CIPFA (Chartered Institute of Public Finance) and the RICS (Royal Institution of Chartered Surveyors) in terms of reporting and tracking risks to the values of the Councils investment portfolio. It is generally accepted that we are currently in a period of 'Valuation Uncertainty' and until markets start to act more normally, this will remain the case in the short term. Values are linked to income, so in order to assess the risk we continue to track and monitor incomes, not just within our portfolio but in the Cheltenham's commercial market place.</p> <p>We are acutely aware of the positions of other Councils and some of the difficulties they are being faced with, but we are <u>not</u> in the same boat as many Councils. The surveyors</p>	

within the team have been in constant touch with local Agents in the Cheltenham commercial market place and tracking, as much as possible fluctuations and changes. For example one Agent reported that some of his Landlords were receiving less than 10% of their retail rental income in June 2020. Another agent reported that the majority of their Landlords with commercial portfolios were lucky to receive rents at greater volume than 30% of their normal income, during April, May and June 2020. All agents agree that Industrial is the strongest commercial market and is continuing to show signs of growth and secure income streams throughout the COVID shutdown and continues to do so. All agents have seen an increase in Landlords seeking advice in terms of disposals and redevelopment of typical commercial (mainly prime retail) premises. The residential market remains strong and the Agents assume that many retail (and possibly some office) buildings will look to convert to mixed use, to protect the Landlords investment value.

Traditionally in retail markets Primary Retail Units have been considered the most desirable in terms of locality and income. Post COVID lockdown it is generally recognised that this may no longer be the case, and the most secure retail units in terms of income generation and value will be the tertiary units. As flagged in the answer to question one, the majority of the HRA investment portfolio is tertiary retail units. In fact the Council only really has one unit that could be considered as a Primary Retail Unit.

The Office market is the least certain in terms of which way it is heading. There are still new leases being completed in terms of our own portfolio and in the market place, but enquiries have slowed and generally vacant office space is being considered more difficult to let. What is clear is that this market place may take a little longer to settle whilst companies and teams start to settle into a new norm.

So how does all this relate to Cheltenham Borough Council? Our investment income during COVID has dropped by about ¼, however the majority of this will still be paid to the Council at a later date as the rent has only been deferred not gifted. The completion of the units at Enterprise Way has been delayed by COVID and therefore the additional income stream that was due to be generated from these units will commence from 1<sup>st</sup> February 2021 by way of an agreed pre-let. This will result in a 'new income stream'. What all of this tells us in relation to the Asset Valuations is that any impact to the value to the Assets should not be greater than 20% decrease (as the Assets currently not paying rent will resume), more likely around 10%, this is much, much better than for other Councils and the Cheltenham market place. We continue to actively engage with our own tenants and monitor for signs of risk to our income streams and actively work with our tenants to help to limit risk. We have a fairly robust portfolio and its diverse nature has help shield us somewhat to the more common market trends. We are actively seeking more income generating opportunities by exploring various options that move away from traditional market norms and this will also help secure and hopefully stabilise our portfolio in terms of its value. The values of our Investment Portfolio (indeed our entire portfolio) are under constant review and we continue to track the market and market trends for signs of danger and risk, to try to ensure we remain on the front foot, when the market place is more certain, reporting will be more conclusive and values less uncertain.

**9. FINANCIAL OUTTURN 2019/2020 AND BUDGET MONITORING REPORT  
APRIL-JUNE 2020**

The Leader introduced this item in the absence of the Cabinet Member Finance. He praised the significant work undertaken by the finance team and in particular



the Executive Director Finance and Assets, in a difficult and unprecedented situation. He also thanked the Cabinet Member for her contributions.

He outlined the financial impact of the Covid-19 crisis, noting that in normal times, the council would be able to declare a surplus around this time. By the end of March 2020, however, £72,000 of extra Covid-related costs had already been accrued, on top of some £400,000 in lost income, mostly from car parking. Initial government support was meagre (around £50,000), due to how the first tranche of support was mostly aimed at authorities with social care responsibilities. In that context, he suggested that being able to declare an overspend of only £47,000 was remarkable. He added that there were a number of carry forward requests, as was to be expected.

He praised how the Golden Valley Cyber Central project had been able to continue during the pandemic. A number of groups were bidding to become the project's development partner, and this had been whittled down to six at the time of the meeting. He welcomed the fact that the council's key affordable housing projects were up and running, and thanked Cheltenham Borough Homes for their significant efforts in that respect.

The Leader acknowledged that after the end of March, the situation had changed dramatically. The current forecast was for a total loss of income of £3.5m, as well as extra costs of £1.7m. He added that the total government support received as of the end of June was £1.2m, and noted the gap between these figures.

He noted that CBC received £173,000 out of the government's latest £500m support package to local government, and that the government had also pledged to underwrite 75% of local authorities' losses. The situation was less clear when trusts were involved, for example in the question of leisure centres. Future announcements were expected from central government to clarify this. He reported that Cabinet had endorsed the report for Council approval on the 28<sup>th</sup> July.

One Member thanked finance officers for their work in a difficult time, and stressed the importance of central government's pledge to underwrite local authorities' losses. He was hopeful that the Chancellor's forthcoming Autumn Statement would offer further support to local government. He also praised the Holiday Hunger Fund, and placed on record his hope that this support would continue during the winter. The Leader of the Council responded that the Autumn Statement would be of considerable importance, and he hoped that CBC could 'phase' some of its losses over the next few years, although the size of these losses was not yet clear. The budget was likely to be reviewed towards the end of September, although they were still waiting on key aspects of government advice.

The Chair of the Budget Scrutiny Working Group added his support for the report, and asked whether an emergency budget could be required later in the year. He also asked about the situation with the council's partner organisations, and how wide-ranging the reassessment of its property assets was likely to be. The Leader of the Council responded that Cabinet Members were in regular dialogue with partners, and that the Trust, for example, had given an in-depth briefing to Overview & Scrutiny Committee about its financial situation. The

Executive Director Finance and Assets added that an emergency budget was not presently required this financial year, partly due to the commitments and promises coming from central government. With the exception of potential slippage in savings, the support received to date would cover the additional expenditure incurred by the council. Although he did not expect an emergency budget to be required, difficult decisions would likely need to be made, and the council had identified £2.5m of its own resources that could be applied if necessary to cover lost income. In terms of reassessing property assets, the request of the property team was to produce a long list of options by the end of August, which could then be considered by Cabinet and by Members at their briefings.

The Executive Director Finance and Assets noted that particular sectors had been hit especially hard by Covid-19 (leisure, hospitality etc.) and a full year business rates holiday had been implemented to support them, the financial impact of which would be mostly felt next year. Council tax was also a key consideration, with many people likely being unable to pay it due to financial hardship, and deferred payment plans being made available to help them out.

The Leader of the Council thanked Members for their contributions, and thanked the Local Government Association for liaising closely with central government to represent local authorities. He added that more frequent meetings had been organised with partners to keep the council abreast of any developments.

One Member asked whether a temporary relaxation of car parking charges could encourage shoppers and alleviate the loss of income slightly. The Executive Director Finance and Assets responded that he understood the logic, but warned that this reduced income would not be covered by any government underwriting, and as such would not be advisable. The Leader of the Council added that the main reduction in car parking income had been from a fall in commuter parking, with more people working part-time or from home, rather than from shoppers. The council must take into account shifting work habits.

The Mayor moved to a vote, which was unanimous.

### **RESOLVED THAT**

1. the financial outturn performance position for the General Fund, summarised at Appendix 2 be received, and that it be noted that whilst services have been delivered in 2019/20, there was an overspend of £47,518.56 against the approved budget which has been met from general balances (after carry forward requests);
2. the £191,552 of carry forward at Appendix 5 be noted;
3. the annual treasury management report at Appendix 7 and the actual 2019/20 prudential and treasury indicators be noted;
4. the capital programme outturn position as detailed in Appendix 8 be noted and the carry forward of unspent budgets into 2020/21 (section 7) be approved;

5. the position in respect of Section 106 agreements and partnership funding agreements at Appendix 9 (section 9) be approved;
6. the outturn position in respect of collection rates for council tax and non-domestic rates for 2019/20 in Appendix 10 (section 10) be noted;
7. the outturn position in respect of collection rates for sundry debts for 2019/20 in Appendix 11 (section 11) be noted;
8. the financial outturn performance position for the Housing Revenue Account for 2019/20 in Appendices 12 to 13 (as detailed in Section 12) be received and the carry forward, virement and reclassification of budgets in 2020/21 as set out in paragraphs 12.8 to 12.10 be approved;
9. the budget monitoring position to the end of June 2020 be noted (section 13).

**10. ADOPTION OF REVISED SEXUAL ENTERTAINMENT VENUE POLICY**

The Cabinet Member Development and Safety introduced the item as per the published report. He explained that the revised policy did not take a moral position on sexual entertainment as it was permitted by law. Under the 2009 Act, sexual entertainment could take place by law under certain conditions without the requirement for a licence permitting the activity.

He reported that there had been a minor change the Policy, as outlined in Section 7 of the report. This encompassed the lower end of Bath Road and the High Street, at this was a location for an SEV. There were new conditions to provide additional protection for staff. Consultation on the revised policy had taken place between November and January, with limited, but not particularly negative, feedback.

Councillor Harman proposed the following amendment:

**“Council believes that there is no place within the Borough of Cheltenham in which it would be appropriate to licence a sexual entertainment venue. Therefore Council resolves to adopt a nil limit of sexual entertainment venues for the whole of Cheltenham Borough implemented through smaller relevant localities. The relevant localities would be each of the twenty wards in the Borough to ensure that the characteristics of the relevant localities are taken into account.”**

In speaking to the amendment, Councillor Harman explained that the last time this was debated by Council, it was lost by only one vote. He emphasised that Members should be free to express their own views, and that action was needed to deliver equality for women. He reiterated his belief that Cheltenham should not be a venue for SEVs.

One Member stated that passing the amendment would be a political and dangerous step. While he sympathised with those opposed to the policy, it was the best practice to have a policy to regulate sexual entertainment. He suggested that national government had let local authorities down by including a loophole which allowed any premises to put on sexual entertainment once a

month. This could allow businesses to move regularly to other venues, putting more people at risk and making the town more dangerous.

In seconding the amendment, Councillor Cooke emphasised that although adults should be free to choose, the easier you make it to visit these premises, the more likely you are to have more of them.

A point of clarification was then raised by the Chair of Licensing who explained that the debate regarding changing the rules for SEV's included contributions from the police, GRASAC (Gloucestershire Rape and Sexual Abuse Centre), Chelt Fems, operators, performers and ward councillors.

Councillor Harman then summed up by stressing that the proposal was not political, and thanked Councillor Cooke for seconding the motion.

The amendment then went to a vote and was lost.

For:	3
Against:	23
Abstentions:	2

The following points were raised on the substantive motion:

- One member noted that this was the final step to complete the licensing review. Evidence was taken into account from all involved, including performers, operators, the police and local churches. The Member wanted his thanks to all involved formally minuted. There had been evidence gathering sessions involved, and the police would come straight to the council with any problems or concerns. The member added that there had been a lot of scrutiny involved in the matter, and they had never come across any performers under duress. He added that Two Pigs were happy with the proposed amendments, performers stated that they feel safe, and that there were adequate changing facilities and security. To protect young people, there would be a Challenge 25 rule on the door rather than simply under 21 – i.e. anyone who looked under 25 must provide photo ID. Exchanging of social media details would be prohibited, along with any other personal details, which would deter any accusations of illegal activity. To highlight the risks of modern slavery, coercive control and abuse information would be provided in the changing areas, readily available to all the performers. The Member stressed that this was the best they could do within the current framework.
- One member confirmed that he had visited SEV's with the licensing team and had generally been very impressed with them. He offered his praise to the licensing committee and licensing department for all their continual hard work, emphasising that if venues are permitted in the town, it is far better to be involved and have them properly regulated.
- Another Member who sat on the Licensing Committee and was involved in the working group wished to comment that the performers felt very well looked after and made it clear that they preferred it if premises were

licensed. They also wished to praise the Licensing team for all their hard work on this matter.

The Cabinet Member Development and Safety summed up by stating that other Members had supported the case well. He confirmed that there was no real demand for SEVs outside of race week, but if the policy was not adopted then there would be no control and no proper regulation. He acknowledged that it was an emotive topic, but stressed that this was the pragmatic approach, and recommended that the Council support it.

**RESOLVED THAT**

1. the consultation feedback be noted;
2. **the revised policy document attached at Appendix 5 be approved.**

For: 22

Against: 0

Abstentions: 6

**11. NOTICES OF MOTION**

There were none.

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

There were none.

Roger Whyborn  
**Chairman**

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**Council**

**Monday, 16th November, 2020  
4.00 - 7.15 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Roger Whyborn (Chair), Sandra Holliday (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, Bernard Fisher, Wendy Flynn, Tim Harman, Steve Harvey, Rowena Hay, Alex Hegenbarth, Karl Hobley, 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

**Minutes**

**1. APOLOGIES**

There were no apologies. Cllr Savage had advised that he would be late.

**2. DECLARATIONS OF INTEREST**

Councillor Willingham declared an interest in agenda item 8 and did not participate in the debate.

Councillor Babbage declared a personal interest in agenda items 8 and 10.

Cllr Barrell's declared a personal interest in agenda item 8.

Councillors Boyes, Cooke and Savage declared an interest in agenda item 10, motion A and did not participate in the debate.

**3. COMMUNICATIONS BY THE MAYOR**

The Mayor reported that it continued to be a very unusual year but that he had been able to participate in the Remembrance Day celebrations and also to put a poppy wreath on a train to Paddington on Armistice Day itself.

He had also visited some allotments to thank the allotment holders who had kindly donated 33 bags of fresh produce to local food banks and he reported that his own food bank fund had raised more than £13,000.

The Mayor was pleased to report that the County Council and Borough Council's help hub was continuing throughout this lock down. Many people were being affected again so he advised members that the phone number for the Help Hub had not changed and he asked them to make their constituents aware accordingly.

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

The Leader of the Council expressed his regret that the country was again in lockdown but spoke positively about the strides being taken on developing vaccines. He said it was critical now to continue to follow the guidelines until vaccines were widely available. He said the continued work of the council to support the help hub was important, particularly the work to strengthen the food network and that at a special cabinet meeting the following day they hoped to agree the latest business grants. As well as national grants, the council would be receiving about £2.3m for discretionary grants locally and the leader expressed his appreciation to the Head of Revenues and Benefits and her team for allocating these grants out. He also expressed his thanks to all council staff and partners for everything they are continuing to do.

**5. TO RECEIVE PETITIONS**

No petitions were received.

**6. PUBLIC QUESTIONS**

There were no public questions.

**7. MEMBER QUESTIONS**

<b>1.</b>	<b>Question from Councillor David Willingham to Cabinet Member Finance, Councillor Rowena Hay</b>
	<u>Covid-19 recovery revised budget 2020/21</u> In section 3.38 it has been mentioned that some properties have been reassigned from domestic council tax to business rates, can I seek a confirmation that regulatory and counter fraud checking will be done to ensure that such changes are legitimate and have appropriate regulatory approvals where those are required?
	<b>Response from Cabinet Member</b>
	The property owners/leaseholders appealed to the Valuation Office Agency (VOA) to have the properties reassigned to business rates and where the VOA was satisfied the requirements were met the change was made by the VOA. The properties are being monitored but ultimately only the VOA can make the decision to move properties between council tax and business rates and vice versa.
	<b>Supplementary Question</b>
	Councillor Willingham wished to ensure that any changes made by the VOA were made aware to the planning enforcement and licensing teams to ensure they had all the relevant approvals.
	<b>Response from Cabinet Member</b>
	The Cabinet Member replied that as far as she was aware there were no structural changes to the buildings that would require a planning application, just a change from residential to business use. Should it be a change of use then planning or licensing approval would be needed.
<b>2.</b>	<b>Question from Councillor David Willingham to Cabinet Member Finance, Councillor Rowena Hay</b>
	<u>Covid-19 recovery revised budget 2020/21</u> In section 4.25 it has been noted that certain assets could be disposed of; while not wishing to obstruct disposal of assets, I note that the BT phone boxes outside the Ambrose Street public conveniences seem to be mainly used for antisocial behaviour such as drug dealing, and that BT



	appear to be reluctant to address this. Could I seek an assurance that the conditions on disposal of this asset will not make it any more difficult for CBC and our partners to try to tackle this ASB?
	<b>Response from Cabinet Member</b>
	I believe that if the decision is made to dispose of this asset then once it is sold or the site redeveloped, the daily activity around the property is likely to deter anti-social behaviour, This is an important site with potential to be an attractive space connecting the two parts of the high street. Any development should make it easier to deal with any ASB should it still occur. In the meantime, further attempts will be made to persuade BT to remove the phone boxes,
<b>3.</b>	<b>Question from Councillor David Willingham to Cabinet Member Cyber and Safety, Councillor Andrew McKinlay</b>
	In the Borough Council's car park strategy, Malvern Walk was proposed to be used to accommodate overflow staff parking to facilitate the use of space for the Minster Innovation Exchange. The residents I represent in the Taylor's Yard development have some concerns about ensuing that parking on the ramp doesn't impact on them. In light of more staff working from home, can I seek clarification of the current status of Malvern Walk car park in light of the changes to the current budgets?
	<b>Response from Cabinet Member</b>
	In light of the significant and on-going impact which Covid-19 is having on car park patronage, the works to provide bespoke arrangements for staff parking at Malvern Walk have been put on hold, pending further consideration of the required future capacity for car parking to support access to town centre shops and other businesses/services.  There may well be a permanent change in the demand profile, especially if home working patterns established during the pandemic become long term. If this proves to be the case and in light of the council's commitment to carbon neutrality by 2030, it may no longer be appropriate to invest in the proposed parking scheme at Malvern Walk.

**8. COVID-19 RECOVERY REVISED BUDGET 2020/21**

The Cabinet Member Finance presented the Covid-19 recovery revised budget 2020/21 and a copy of her speech is attached to these minutes.

The following responses were given to Member questions:

- Bereavement services- Cremations were taking place but without the full extent of the service for relatives and mourners due to Covid restrictions. As a result, the fee income had reduced.
- Additional cost to Ubico-this was due to the changing nature of the profile of the waste and recycling crews were collecting. Recycling figures were increasing but there was an increase in residual waste collection resulting in an added cost.
- Council tax and business rates-it was acknowledged that there would be a significant impact on cash flow but it was deemed too early to make a judgement as to the magnitude of the losses and how much would be

irrecoverable. Once this was known there would be significant lobbying of Government to seek further loss of income compensation.

Group Leaders were invited to address Council.

On behalf of the Conservatives, Cllr Harman thanked the Executive Director Finance and Assets for his significant contribution in bringing forward these innovative proposals. He acknowledged the ongoing crisis and recognised the government's flexibility for authorities to use capital receipts to support budgets in the short term. Longer-term, the reconfiguration of the council was necessary and with the successful shift to home working there had been a significant change to the delivery of services. He expressed his support for the proposals.

On behalf of the PAB, Cllr Stennett welcomed the proposals and fully supported them. He expressed caution that when disposals were undertaken sight should not be lost of consultation and adherence to procedures. He wished to put on record his thanks to the Executive Director Finance and Assets and the finance team.

The Leader acknowledged that this council had suffered significantly because of Covid. There were two things he wished to highlight, firstly that the Council would remain in existence to assist with the crisis and secondly that it was able to continue with its long-term plan in the community by delivering its high priority projects. He recognised that the council was in a better position than some authorities to tackle the situation. This was partly due to sound financial planning over decades, which meant that the authority owned assets, which it could capitalise on over a three year period. It was also due to the flexibility and innovation of the response to the situation and in that regard, he paid tribute to the Executive Director Finance and Assets and the Cabinet Member Finance.

In the debate that ensued the following points were made by Members :

- The Chair of Budget Scrutiny explained that the group had examined the proposals and whilst spending capital receipts to meet revenue was not ideal, it was recognised that this was a short-term approach and the group were happy to support.
- The proposed solution was innovative and met legal requirements.
- The extent to which the council was committing assured the town's future, e.g. continuing the rapid development of the golden valley and cyber central project to its conclusion. Thanks were given to those officers who were supporting this project.
- The Chair of Audit, Compliance and Governance highlighted that the independent auditors had given high praise to the council at the recent committee meeting and this was due to the decades of prudent fiscal responsibility. Many councils in the country were looking at Cheltenham as a template of fiscal resilience, which was a credit to the Executive Director Finance and Assets and his team and the Cabinet Member Finance.
- The commitment to the provision of affordable homes in the town was welcomed. The proposals also aimed to continue supporting those that needed support to address issues of homelessness.

- Members recognised the need to look at the council's asset base, particularly in light of changing work habits and the impact this has had, for example, on the use of council owned car parks. It was also suggested that going forward it may be time to look at the airport which was jointly owned with Gloucester City Council.
- Emphasis was placed by some Members on prioritising mixed use developments, particularly in the town centre, as lifestyles of residents had changed as a result of Covid 19.

In summing up, the Cabinet Member Finance highlighted that due to the authority's diverse investment portfolio the pandemic was having little impact. This budget provided the council with three years 'breathing time' to plan carefully and think ahead.

The Chair moved to a recorded vote.

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

- 1. the estimated position in respect of collection rates for council tax and business rates for 2020/21 (paras 3.37 to 3.44) be noted.**
- 2. the revised Minimum Revenue Provision (MRP) policy as detailed in Appendix 2 (paras 4.12 to 4.16) be approved.**
- 3. the revised capital programme with £1.7m capital receipts previously allocated to the High Street works to be reallocated to repaying the MRP as detailed in paras 4.19 to 4.20 be approved.**
- 4. the identified asset disposals as detailed in paras 4.22 to 4.29 be noted.**
- 5. the virements as summarised in Appendix 3 be approved, in order to produce a balanced General Fund (GF) revised budget for 2020/21.**
- 6. It be noted that future budget monitoring reports will assess the position against this revised budget and further decisions may be required depending on the economic impact being experienced as the year progresses.**
- 7. the additional budget and funding for Cyber Central (Golden Valley development) as set out in section 5 be approved.**
- 8. the flexible use of capital receipts strategy as detailed in Appendix 4 (paras 5.21 to 5.26) be approved.**
- 9. the budget-setting timetable at Appendix 5 and note the 2021/22 budget process outlined in section 6 be approved.**
- 10. Notes the intention for this Council to remain in the Gloucestershire Business Rates Pool in 2021/22 as outlined in section 7 and note that the Council reserves the right to withdraw after the local government finance settlement announcement.**
- 11. the Housing Revenue Account (HRA) revised budget for 2020/21 as summarised in Section 8.**

FOR : Cllrs Atherstone, Babbage, Baker, Barnes, Barrell, Boyes, Britter, Brownsteen, Clucas, Coleman, Collins, Cooke, Dobie, Fisher, Flynn, Harman, Harvey, Hay, Hegenbarth, Hobley, Holliday, Horwood, Jeffries, Jordan, Mason,

McCloskey, McKinlay, Oliver, Parsons, Payne, Seacome, Stafford, Stennett, Sudbury, Wheeler, Whyborn, Wilkinson, Williams

AGAINST: 0

ABSTENTIONS: 0

## **9. MINSTER INNOVATION EXCHANGE (FORMERLY WORKSHOP CHELTENHAM)**

The Cabinet Member for Finance introduced the report and reminded Members that Council had taken a decision to invest in the Workshop Cheltenham (WSC) scheme. However, in July 2020, in response to the impact of the Covid-19 pandemic, the Government announced a £900m 'Getting Building Fund', administered by the LEP, to fund shovel ready schemes which supported the economic recovery. Council Officers and Directors of Workshop Cheltenham submitted a bid and the council was awarded £3.114m to fund an enhanced scheme. As a result of this grant, a reduced level of council investment was required. The rebadged Minster Innovation Exchange scheme has the potential to completely transform a neglected area of the town and forms part of the council's key recovery plan from the impact of the pandemic.

The LEP requested that Cheltenham Borough Council took over the commissioning lead for the construction of the building and promoter role and this has resulted in the need to waive the council's contract rules to ensure that the work undertaken by WSC is progressed in a timely manner. Given the revised approach on the commissioning lead, the Cabinet Member was requesting Council to approve the overall budget for the enhanced project.

In response to Member questions, the Cabinet Member confirmed that:

- Workshop Cheltenham Ltd was a completely separate entity to Cheltenham Borough Council. Hub 8 represented a group of entrepreneurs who instigated the concept, are independent and have no links to the council. They are not investing themselves but take a profit share out of it.
- The project was time limited and was ready to go, as the Building Better Fund was all about shovel ready schemes and if they were not completed by a certain time, the government would request the funding back. That was why it had come as an urgent item to full council. An Officer confirmed that the project had to be delivered by next Christmas so the intention was to use a highly fast construction method with modular buildings to be able to meet that delivery date.

One member referred to paragraph 4.2 of the report which considered the delivery of the project and the one option to use CBC staff, but questioned whether CBC staff would be able to fully resource this. The Cabinet Member replied that the scheme was fully funded and part of the funding included project management which would be undertaken by WSC. The Member also referred to the removal of hundreds of cars in 3.3 of the report, suggesting this would not happen, they would just use a different car park.

The chair moved to debate and a Member expressed his full support for this excellent scheme for Cheltenham which was vital to reenergise the economy at this difficult time particularly as there were very few development opportunities in the town centre. It represented an excellent use of land and the government funding was to be welcomed.

**Upon a vote it was RESOLVED THAT**

**The gross capital budget for MIE of £4,671,000, as per Appendix 5, be incorporated into the council's budget and capital programme for 2020/21.**

**10. NOTICES OF MOTION**

**Motion A: Proposed by Councillor Clucas, seconded by Councillor Horwood**

*Gloucestershire County Council's Health & Overview Scrutiny Committee (HOSC) meeting on 15.09.20 approved the Hospital Trust's proposal to extend the three-month closure of Cheltenham's Type 1 A&E Department for a further six months.*

*Council appreciates the work the NHS Trust has done, particularly during the current pandemic, and understands the original three-month closure was to help keep Cheltenham General 'COVID Free', during the height of the COVID transmission, so elective surgery - such as orthopaedic and cancer surgery could be resumed.*

*Council is concerned that A&E at Gloucestershire Royal Hospital does not have the capacity to cope with all A&E patients from the whole County. It is also less accessible from large parts of the county and does not have the Emergency Ambulance capacity. Council is also concerned the additional six-month extension could become a long term or permanent change.*

*Council appreciates the Hospital Trust is committed to re-opening the A&E Department at Cheltenham General "when it is safe to do so", but should like to hear more about what plans the Trust has to re-open the Department when it is possible. Council also seeks assurance the new plans for redevelopment of Cheltenham General will include the existing Type 1 A&E Department, or a new Type 1 A&E Department. Cabinet welcomes their promise to HOSC that a further downgrade of Cheltenham A&E to a Minor Injuries Unit **would not be included in** their permanent change proposals.*

*Cheltenham Council urges the Trust not to downgrade our Type 1 A&E at all (i.e. to an Urgent Treatment Centre) and to present local councils with a long-term plan for the full restoration of a 24 hour Type 1 A&E at Cheltenham.*

*For the avoidance of doubt, Council remains opposed to permanent closure or downgrading of Accident and Emergency (A&E) facilities at Cheltenham General Hospital. This follows decisions formerly taken by Cheltenham Council.*

*Council is pleased to see Gloucestershire Clinical Commissioning Group and Gloucestershire Hospitals' Trust are presenting their latest proposals at an all-member event, to which all Cheltenham Members have been invited.*

*Further, Council recognises that the Trust's permanent change consultation are under way. Proposals may yet include another permanent move of general surgery to Gloucester Royal Hospital. Council is requested to prepare a consultation submission reflecting the observations and direction in this motion. Council can formally agree such submission prior to submission.*

In proposing the motion, Councillor Clucas recognised and thanked those who worked in the health service. She stressed that the consultation on the future of the hospital was poorly timed and should be deferred to a later date, but that it was still important to respond properly to the consultation despite objecting to how it was being run. She added that some of the questions in the consultation were, in her view, inadequate and clearly sought to lead respondents towards a particular answer. The consultation period was due to end shortly after the next Council meeting on December 7<sup>th</sup>, so this was an urgent issue.

In seconding the motion, Councillor Horwood echoed her words about NHS frontline and support staff, criticised the timing of the consultation and stressed the importance of restating the commitment to restoring Cheltenham's A&E. He added that Cheltenham Hospital must not become a satellite of Gloucester Royal.

One Member emphasised that there were no borough or county councillors who did not want reinstatement of the full A&E, and suggested that all concerned parties demonstrate unity by signing a letter on the subject. Councillor Clucas responded that this would not be enough, as the issue affected everyone in Cheltenham and the surrounding areas.

Several Members criticised the Gloucestershire NHS Trust for not giving weight to public concerns and failing to provide an adequate service for residents. One Member warned that the loss of staff was a serious issue, and would continue if not directly addressed. Members agreed that NHS hospitals must be run in a way that delivered for the people of the town. One Member noted that transferring patients from Cheltenham to Gloucester and vice versa without providing adequate transport back could pose problems for vulnerable people.

Members agreed that honest conversations were needed about the delivery of healthcare services in the long term. One Member stressed the importance of maintaining a constructive relationship with the Trust and being a critical friend.

In summing up, Councillor Clucas thanked Members for their comments and stressed that the question was not political, but rather what the council could say as a united body. She emphasised the importance of the public feeling that they were being treated at a centre of excellence, and the need for hospital staff to feel valued and looked after. She hoped that residents would come forward based on what they had seen in the consultation, and that officers would take advice from senior medical professionals when producing their response.

Upon a vote the motion was carried.

**Motion B:**

*Given the swiftness of the announcement of a second lockdown and its immediate impact on families, particularly children, locally;*

*Recognising that many local organisations, voluntary and church groups have been instrumental in providing essential supplies and food to those most affected by the pandemic;*

*Recognising that such groups require support financial support to continue their work;*

*Recognising that Cheltenham Borough Council has a Social Value Policy;*

*The Chief Executive is requested to contact all of its suppliers and contractors to request support, either financial or in kind, for the food network, so that residents badly affected by the pandemic, immediate lockdown and its consequences, can be helped.*

*Further, Council requests County Councillors representing Cheltenham divisions to advise the Chief Executive if they are able, once again, to support the network financially as some have already done during this last year.*

In proposing the motion, Councillor Clucas thanked local groups, partners, suppliers and contractors for their support during a hugely difficult time, and explained that the motion asked for any further support they could give. She acknowledged that no solution would be a quick fix, and that Members needed to understand that they were in for the long haul.

In seconding the motion, Councillor Jeffries noted that the first lockdown had been a real shock to the system, but that he had seen real empathy between communities, neighbours and friends. He stressed that those who needed help needed to ask for it, and that there was no shame in that. The borough council was asking for help and would try to direct it straight into the communities that need it the most. Members agreed that tough times often brought the best out of people by bringing them together.

One Member praised the generous support received from all around the town, particularly the innovative solutions put together by local groups. He acknowledged that some businesses were on their knees, but others were in a better situation and were able to give. One Member agreed with this, stressing the need to consider the wide range of experiences during Covid, and the tough choices people were forced to make. Another Member stressed that although Cheltenham was a relatively prosperous town, not everyone was able to share in that. There was a major wealth discrepancy in the town, and it was not right to think in binary terms of 'haves' and 'have-nots'.

One Member echoed the praise for local groups, singling out the Big Local as an example of this good work. They advised talking to supermarkets to suggest that they donate foodstuffs with a short lifespan that would otherwise go to waste. One Member expressed their sadness that this kind of charity was

necessary in such a wealthy country, and suggested that basic human rights like food should be provided unconditionally in the first place.

One Member stressed that all donations had to be entirely voluntary, and that it should be made clear to partners that not donating would not have any negative influence on their future relationship with the council. Councillor Clucas agreed that this would be emphasised in the correspondence.

In summing up, Councillor Clucas added that the food network were working towards giving people more choice over what kind of food they received. She expressed her sadness that people were falling through the regulatory cracks and ending up with next to nothing. She stressed that even the smallest amount of support could be invaluable, especially in the lead up to Christmas. She requested the Mayor and Chief Executive to write a joint letter to local groups as well, to demonstrate that it was not just a bureaucratic exercise.

Upon a vote the motion was carried.

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

None.

Roger Whyborn  
**Chairman**



Each budget over the last 10 years has been a challenge as we have seen our central government funding reduce by 6.8 million. There is no point in bemoaning what you cannot change as I have said before, what we can and have done is rise to the challenges, this Council has an excellent track record in delivering pioneering solutions to the budget pressures faced.

Over the same 10 year period, the Council has delivered savings and additional income in excess of £9.6m – this is broken down as £2.916m from staff reorganisation and service reviews; £3.378m through the creation of innovative shared services with other local authorities and the creation of alternative delivery models such as Ubico and the Cheltenham Trust; and £3.669m from additional income generation and effective asset management.

All was going well with our budget monitoring position then along came a unique challenge which requires a unique response. Covid-19 has tested Cheltenham's communities, economy and way of life in a way that has not been seen since the Second World War. Our Borough has lost loved ones, business has been disrupted and we have all had to re-learn a new existence that tries to retain our human connections while being apart. We have been humbled by the dedicated and caring values shown by all to support and shield those who need help and we are proud to witness the strength and resilience of our town in the face of this challenge. Overcoming Covid-19 involves more than finding a medical cure, we must also focus on how we can rebuild our economy and communities to be stronger than before. Nevertheless, the challenge of this global pandemic requires a response that is more innovative and ambitious than we might have thought previously possible.

So a bit of context. Despite the significant input from Central Government to cover some of the additional expenditure and lost income we are still facing a budget deficit in this financial year of £1.831m. That is more than 12% of our net budget! This could be replicated in future years as we wait for the economy to recover and adapt to some of the changes that have been imbedded such as home working, all of which impacts on our income base. Section 3 of this report documents in detail where and why these have happened and I do not propose to go through them in detail now.

In determining the strategy for us and working closely with our Section 151 Officer, I have recommended ruling out 3 other options as follows:

We could blow a great proportion of our reserves to balance the books but that leaves us exposed in future years as no-one really knows how long the recovery process will take. Members would need to make extremely difficult choices in terms of what services would be provided in future years to enable the Council to replenish its reserves and for that reason, this is not an option I could support we have successfully come through the years of austerity with no cuts to services.

We heard only last week that a London Borough found itself in the situation whereby it had to issue a Section 114 notice. Our Section 151 Officer could issue a Section 114 Notice which would effectively put a stop to all expenditure on discretionary services, the very services that make Cheltenham what it is. This would damage future plans for growth, reduce employment, job creation and leave the spaces and places of Cheltenham in an increasingly deteriorating state. Once again not an option I would wish this Council to fall in.

We could go cap in hand to the Government but this is unlikely to come in the form of additional grant. It is likely to come with various conditions and effectively take the control away from us in determining our own future so once again not an option I wish to pursue at this moment in time.

So that leaves us with the strategy that is being proposed. Clever in so many ways yet simple to implement! As I have mentioned many times, we have a significant asset portfolio valued at in excess of

£0.5Bn, and that, fundamentally, is why Cheltenham is unique compared to many of our neighbouring authorities.

The capital strategy approved by council annually & the investment property portfolio have clear aims and objectives as set out at 4.22, bearing that in mind, the immediate focus has been on those assets held in our portfolio that are deemed surplus to operational requirements and are currently low yielding in terms of delivering a return to our residents.

They are, however, strategically placed to drive economic activity and the creation of jobs to deliver much needed housing and commercial opportunities for the wider benefit of the whole town and its communities, these have the potential to realise capital receipts in excess of 4 million pounds, it is important to say at this point that what I am asking of council today is to NOTE the potential disposal as there would of course need to be all of the normal due diligence and consultation done before cabinet would accept any decision.

The strategy, utilising existing legislation, allows us to utilise capital funds to replenish revenue and the best way I can articulate this is to steal from Paul Jones explanation at the recent staff briefing which I was at and thought what a simple way to explain that makes it relevant !

Many of us will have a mortgage, paying monthly repayments through our monthly pay. If you are fortunate enough to be able to generate a capital sum say from the sale of another asset, you are permitted to make a lump sum repayment against your mortgage, thus reducing future repayments. In layman's terms this is what we are proposing.

So the result of this strategy means we will be able to release £1.7m to fund this years budget and ensure it is balanced without the need for any further cuts in services.

It provides a further £1.7m to act as a cushion for next year whilst we await some of our income streams to recover and it provides a further £1.4m in 2022/23 to provide additional resilience. That is almost £5m over the next 3 years to ensure the financial sustainability of this Council.

It is imperative that we ensure there is stability for our whole town over the following two years , we cannot rely upon central government to financially support us as we know not when, how or if they will, that said we are thankful for the support we have received to date, what our Town deserves right now is strong and clear leadership that is not afraid to propose and make difficult decisions, the Cabinet accepts that some of the proposals may not be universally supported by some members and some individuals and groups in our communities but that they are put forward for the benefit of the whole Borough and to ensure the ongoing viability of the Council and the delivery of its priorities.

The proposals before you today also provides a further £1.5m to realise our ambition to make Cheltenham the cyber capital of the UK through the Golden Valley Development through the use of Section 106 monies and the adoption of a flexible use of capital receipts strategy as detailed in Appendix 4.

It also ensures we can continue with our major house building investment of £100 million, the work of the economic recovery taskforce to support our business's, ensuring that our communities are strengthened and empowered, working together with our partners tackling the Environmental climate challenge.

Our housing revenue account also puts forward a revised budget forecast for members consideration today.

The forecast revenue position after the first six months of 2020/21 shows a negative variance of £149,000 from budget, reducing the operating surplus for the year to £1,201,000 (previously £1,350,000). The significant revenue variations can be seen in the report at 8.1, Cheltenham Borough Homes have been

affected mainly by lockdown restrictions causing Page 55r capital programme has also been significantly delayed as members can see at 8.2 of the report.

It is customary for me to present the budget strategy for the following financial year at this time of year and the report details this in sections 6 and 7.

Mayor lastly I would like to give my sincere thanks to Paul Jones in particular for the very detailed report he has given us my thanks go also to each and every member of this authority and its partners for their involvement.

We have the people, ambition and skills to ensure we are best placed to recover from Covid and it is the coming together of everyones efforts over the last 9 months that has enabled this.

Happy to take any questions and as we are accustomed to now relevant cabinet members will answer questions around their own portfolios.

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**Cheltenham Borough Council  
Council – 7 December 2020**

**Special Responsibility Allowances and Outside Bodies**

<b>Accountable member</b>	<b>Chair of Overview and Scrutiny, Councillor Chris Mason</b>
<b>Accountable officer</b>	<b>Bev Thomas, Democratic Services Team Leader</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	Having considered the recommendations of the Independent Remuneration Panel (IRP) in December 2020, some members of Council raised the issue of whether under the scheme for Special Responsibility Allowances (SRA) payments could be made to those Members who are appointed to outside bodies as non-executive directors or trustees. Overview and Scrutiny set up a Scrutiny Task Group to consider the complexities of the matter. This met in October and reported back to O&S at its November meeting.
<b>Recommendations</b>	<b>To note the report</b>
<b>Financial implications</b>	There are no implications arising directly from this report.  <b>Contact officer: Martin Yates, martin.yates@publicagroup.uk, 01242 264200</b>
<b>Legal implications</b>	There are no implications arising directly from this report.  Contact officer: Sarah Farooqi – One Legal <a href="mailto:sarah.farooqi@tewkesbury.gov.uk">sarah.farooqi@tewkesbury.gov.uk</a> (01684) 272012
<b>HR implications (including learning and organisational development)</b>	There are no implications arising directly from this report.  <b>Contact officer: Contact officer: Julie McCarthy HR Manager</b> <a href="mailto:Julie.mccarthy@publicagroup.uk">Julie.mccarthy@publicagroup.uk</a> Tel 01242 264355
<b>Key risks</b>	The determination of allowances is a sensitive subject both from the perspective of Councillors themselves and the public who elect them. In view of this it is important that any scheme adopted is objectively reasonable and based upon some logical and fair mechanism.
<b>Corporate and community plan Implications</b>	It is important for the effective functioning of the council that councillors are paid a basic allowance to support them in carrying out their work they do as local councillors. It is also important to recognise that some councillors with additional duties and responsibilities should receive a Special Responsibility Allowance for the extra work in relation to this.  <b>Contact officer: Richard Gibson, Strategy and Engagement Manager,</b> <a href="mailto:Richard.gibson@cheltenham.gov.uk">Richard.gibson@cheltenham.gov.uk</a>

<b>Environmental and climate change implications</b>	There are no implications arising directly from this report.  <b>Contact officer: Gill Morris, Client Officer</b> <a href="mailto:Gill.morris@cheltenham.gov.uk">Gill.morris@cheltenham.gov.uk</a> , 01242 264229
<b>Property/Asset Implications</b>	There are no implications arising directly from this report.  <b>Contact officer: Dominic Stead, Head of Property and Asset Management</b> <a href="mailto:Dominic.Stead@cheltenham.gov.uk">Dominic.Stead@cheltenham.gov.uk</a> , 01242 264151

## 1. Background

- 1.1 Having considered the recommendations of the Independent Remuneration Panel (IRP) in December, some members of Council raised the issue of whether under the scheme for Special Responsibility Allowances (SRA) payments could be made to those Members who are appointed to outside bodies as non-executive directors or trustees.
- 1.2 The matter was referred to the Overview and Scrutiny (O&S) Committee.
- 1.3 Members acknowledged the complexities of the issue and decided therefore that a Scrutiny Task Group (STG) would be the most appropriate way in which to give consideration to this matter.
- 1.4 The One Page Strategy for the STG was approved by O&S at its meeting on 24 February, but due to the unforeseeable disruptions due to Covid-19, the STG did not hold its first meeting until 22 October 2020.
- 1.5 The STG considered the following advice from the Legal Officer:
- 1.6 The Local Authorities (Members' Allowances) England Regulations 2003 SI 2003/1021 (LAMA) set out a framework for the creation, implementation and amendment of schemes of allowances for Members and co-optees of local authorities.

Regulation 4 provides for the payment of an allowance in respect of each year to each member of an authority and the amount of such an allowance shall be the same for each such member. Regulation 5 makes provision for the payment, each year of an allowance to such members of the authority as have such special responsibilities in relation to the authority as are specified in the scheme. This is referred to as the special responsibility allowance (SRA).

Payments in relation to attendance on outside bodies are only likely to fall under either regulation 5(d) or (i). Under regulation 5(d) an SRA can be paid where a member is "representing the authority at meetings of, or arranged by, any other body". Under Regulation 5(i) an SRA can be made if a Member is carrying out such other activities in relation to the discharge of the authority's functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned in sub-paragraphs (a) to (h) (whether or not that activity is specified in the scheme).

The key point to note is that in relation Regulation 5(d) to enable a payment to be made under this provision the Member must be 'representing the authority'. To trigger regulation 5(i) a Member needs to be undertaking activities in relation to the 'discharge of the authority's functions'.

There are a number of different types of outside body and roles that a Member may become involved in, either independently or, as a representative nominated by the Council. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed.

When a Member takes up a position as Director or Trustee of an outside body they attend Board meetings in their capacity as a Director or Trustee of that body. A Director or Trustee will be

expected (and indeed will have legal duties) to look after the bodies' interests and to further its aims and not the authority's aim. Whilst Members may take their knowledge of the authority with them to an outside body Members must take decisions without being influenced by the fact that they are a Member of the authority. A Member is not therefore not representing the authority or discharging an authority's function and consequently when undertaking the role of Director or Trustee on an outside body neither regulation 5(d) or 5(i) is triggered and a SRA cannot be paid.

In respect of other roles that Members undertake on outside bodies where the Member is either representing the authority or discharging a function of the authority consideration could be given as to whether or not a SRA could be paid. The Independent Remuneration Panel would need to consider whether or not the appointment to an outside body leads to a significant additional responsibility for which a SRA could be paid.

- 1.7 The STG considered the current list of outside bodies upon which CBC have nominated Member representatives.

## 2. Reasons for recommendations

- 2.1 In light of the advice received from One Legal the STG ruled out recommending a SRA be considered for those members who were appointed as Directors (for example, the Airport) or Trustees (for example, the Cheltenham Trust) for companies or charities as the payment of a SRA would not be permitted under the Regulations.
- 2.2 The STG also ruled out recommending that the IRP consider the payment of a SRA where it was felt that attendance at the outside body did not seem onerous or were not organisations that councillors or cabinet members could be expected to attend anyway in the course of their duties.
- 2.3 As a result of this exercise the STG compiled a list of 7 outside bodies which could be actively considered by the group to potentially meet the criteria of receiving a SRA and these included:
- Cheltenham Recovery Task Force
  - Communities Partnership
  - District Councils' Network
  - Gloucestershire Airport Consultative Committee
  - Gloucestershire Playing Fields Association
  - Twinning Association Executive Committee
  - UBICO
- 2.4 On the basis that none of the member representatives on these bodies held the role of Director or Trustee, the STG asked the O&S Committee to consider whether it wished the group to progress any further work in this regard.
- 2.5 This was considered by the O&S Committee at their meeting on the 2 November 2020 (see the draft minutes at Appendix 2).
- 2.6 The O&S Committee were of the opinion that no further work should be undertaken as none of the bodies for which SRAs were potentially payable were bodies where members had been appointed as non-executive directors or trustees; and it had been these bodies, specifically, that Council had asked the O&S Committee to consider.

## 3. Alternative options considered

**3.1** The alternative would have been for O&S to ask the STG to continue their work and look at the 7 outside bodies identified at 2.3, however, these member appointments were not as directors or trustees.

#### **4. Consultation and feedback**

**4.1** Based on the advice received from One Legal the STG ruled out recommending a SRA be considered for those members who were appointed as Directors (for example, the Airport) or Trustees (for example, the Cheltenham Trust) for companies or charities as the payment of a SRA would not be permitted under the Regulations.

**4.2** For the same reasons outlined by the STG, the O&S Committee resolved that no further work should be undertaken by the STG and as a consequence would be making no recommendations to the Independent Remuneration Panel (IRP).

#### **5. Performance management –monitoring and review**

**5.1** The Members Allowance Scheme will continue to be monitored by Democratic Services and any issues arising will be raised with IRP when necessary.

<b>Report author</b>	<b>Contact officer: Saira Malin, <a href="mailto:saira.malin@cheltenham.gov.uk">saira.malin@cheltenham.gov.uk</a>, 01242 774129</b>
<b>Appendices</b>	1. Risk Assessment 2. DRAFT O&S minutes – 2 November 2020 3. Feedback from SRA task group – 2 November 2020
<b>Background information</b>	1. Council minutes – 16 December 2019



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	
	Paying member allowances where there is no legal basis to do so.	Chief Exec	Nov 2020	5	1	5	Accept	Ensuring legal input into member allowance reviews	Nov 2020	Democratic Services Team Leader		

**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

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**Monday, 2nd November, 2020**  
**6.00 - 7.10 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Chris Mason (Chair), Paul Baker, Dilys Barrell, Nigel Britter, Iain Dobie, Martin Horwood, Jo Stafford and Klara Sudbury
<b>Also in attendance:</b>	Councillor Jordan (Leader), Darren Knight (Executive Director People & Change), Councillor Wilkinson (Cabinet Member Climate and Communities)

## Minutes

### 11. **UPDATES FROM SCRUTINY TASK GROUPS**

In the absence of Councillor Payne, the Chairman of the O&S Review STG, the Democracy Officer confirmed that the group had met for the first time in October and though the second meeting had subsequently been cancelled, the group had, had productive discussions about how some of the recommendations could be taken forward.

The Chairman referred members to the feedback from the Special Responsibility Allowance (SRA) STG, that had been circulated with the agenda and Councillor Horwood, as Chair of that group, was asked to address the committee. He explained that the task group had been established to look at options regarding payments of SRAs to members who were appointed to outside bodies as non-executive directors or trustees. As outlined in the paper, the group considered advice from the Legal Officer which, in short made clear that to enable a payment to be made the Member had to be 'representing the authority'. Yet when a member took up the position of Director or Trustee of an outside body they were attending Board meetings in their capacity as a Director or Trustee of that body and were expected and indeed would have legal duties to look after the bodies' interests and to further its aims and not the authority's aims. In light of this advice the STG ruled out recommending an SRA for those members who were appointed as Directors or Trustees and also ruled out SRAs where it was felt that attendance at the outside body did not seem onerous or those which councillors or cabinet members would be expected to attend in the course of their duties. This left a list of 7 outside bodies which the STG felt could be actively considered as potentially meeting the criteria of receiving an SRA, but it was reiterated that these bodies were not where members held the role of director or trustee, which was therefore outside the remit prescribed by this committee. In view of this, the STG were asking whether O&S wished the STG to progress any further work in this regard.

Councillor Horwood gave the following responses to member questions:

- The STG had not investigated whether other authorities, such as Gloucester City in terms of the Gloucestershire Airport Consultative Committee, paid their members to attend, but he personally doubted that they would.

- Ubico was an oddity because it was not a constituted board but rather a subsidiary of the Council(s) and therefore no SRA was payable.
- It was his personal opinion, and not necessarily that of the STG, that no further work should be undertaken as the bodies for which SRAs were potentially payable were not those where members held the role of Director or Trustee.

The Leader confirmed that it was he who had raised the issue at Council, on the grounds that it seemed only fair that Councillor McCloskey, a member on the Publica Board, be paid as the other Board Members were.

Members thanked the task group for their feedback and agreed that many appointments to outside bodies were those members that would be expected to attend meetings anyway because they were ward councillors or Cabinet members, or where the member had a particular interest in the work of the body.

The Chairman proposed that the committee vote on whether the task group should progress any further work.

Upon a vote it was

**RESOLVED that the SRA scrutiny task group should undertake no further work on the issue.**

Chris Mason  
**Chairman**

## OVERVIEW AND SCRUTINY COMMITTEE- 2 NOVEMBER 2020

### FEEDBACK FROM THE SCRUTINY TASK GROUP-SPECIAL RESPONSIBILITY ALLOWANCES

#### Background

1. Having considered the recommendations of the Independent Remuneration Panel (IRP) in December, some members of Council raised the issue of whether under the scheme for Special Responsibility Allowances payments could be made to those Members who are appointed to outside bodies as non-executive directors or trustees.
2. Members acknowledged the complexities of the issue and decided therefore that a scrutiny task group would be the most appropriate way in which to give consideration to this matter.
3. The One Page Strategy for the Scrutiny Task Group was approved by O&S at its meeting on 24 February. Due to the unforeseeable disruptions due to Covid 19, the Scrutiny Task Group did not hold its first meeting until 22 October.
4. This note provides the Overview and Scrutiny Committee with feedback from this meeting.

#### Membership and Terms of Reference

5. Membership of the Task Group:  
Councillor Martin Horwood (Chair)  
Councillor Wendy Flynn  
Councillor Dennis Parsons  
Councillor Diggory Seacome  
  
Officers:  
Sarah Farooqi, One Legal  
Bev Thomas, Democratic Services
6. Ambitions agreed by the O&S committee:
  - Understand the options and restrictions relating to payments of Special Responsibility Allowances to members who are appointed to outside bodies as non-executive directors or trustees.
  - Look at what other authorities do.
  - Consider the budget implications of any payments.
7. Outcomes desired by the O&S Committee:  
Make recommendations to the Independent Remuneration Panel regarding payments of Special Responsibility Allowances to members who are appointed to outside bodies as non-executive directors or trustees, taking into consideration the limitations, restrictions and budget implications.

**Feedback from the first meeting**

8. The STG considered the following advice from the Legal Officer which it wishes to share with all Members of Overview and Scrutiny :
9. The Local Authorities (Members' Allowances) England Regulations 2003 SI 2003/1021 (LAMA) set out a framework for the creation, implementation and amendment of schemes of allowances for Members and co-optees of local authorities.

Regulation 4 provides for the payment of an allowance in respect of each year to each member of an authority and the amount of such an allowance shall be the same for each such member. Regulation 5 makes provision for the payment, each year of an allowance to such members of the authority as have such special responsibilities in relation to the authority as are specified in the scheme. This is referred to as the special responsibility allowance (SRA).

Payments in relation to attendance on outside bodies are only likely to fall under either regulation 5(d) or (i). Under regulation 5(d) an SRA can be paid where a member is "representing the authority at meetings of, or arranged by, any other body". Under Regulation 5(i) an SRA can be made if a Member is carrying out such other activities in relation to the discharge of the authority's functions as require of the member an amount of time and effort equal to or greater than would be required of him by any one of the activities mentioned in sub-paragraphs (a) to (h) (whether or not that activity is specified in the scheme).

The key point to note is that in relation Regulation 5(d) to enable a payment to be made under this provision the Member must be 'representing the authority'. To trigger regulation 5(i) a Member needs to be undertaking activities in relation to the 'discharge of the authority's functions'.

There are a number of different types of outside body and roles that a Member may become involved in, either independently or, as a representative nominated by the Council. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed.

When a Member takes up a position as Director or Trustee of an outside body they attend Board meetings in their capacity as a Director or Trustee of that body. A Director or Trustee will be expected (and indeed will have legal duties) to look after the bodies' interests and to further its aims and not the authority's aim. Whilst Members may take their knowledge of the authority with them to an outside body Members must take decisions without being influenced by the fact that they are a Member of the authority. A Member is not therefore not representing the authority or discharging an authority's function and consequently when undertaking the role of Director or Trustee on an outside body neither regulation 5(d) or 5(i) is triggered and a SRA cannot be paid.

In respect of other roles that Members undertake on outside bodies where the Member is either representing the authority or discharging a function of the authority consideration could be given as to whether or not a SRA could be paid. The Independent Remuneration Panel would need to consider whether or not the appointment to an outside body leads to a significant additional responsibility for which a SRA could be paid.

**Request from the Scrutiny Task Group to the Overview and Scrutiny Committee**

10. At its meeting the STG considered the current list of outside bodies upon which CBC have nominated Member representatives. In light of the advice received from One Legal the STG ruled out recommending an SRA be considered by the IRP for those Members who were appointed as Directors (for example, the airport) or Trustees (for example, the Cheltenham Trust) for companies or charities as Cheltenham Trust) as the payment of a SRA would not be permitted under the Regulations. The STG also ruled out recommending that the IRP consider the payment of a SRA where it was felt that attendance at the outside body did not seem onerous or were not ones that councillors or cabinet members could be expected to attend anyway in the course of their duties.
11. As a result of this exercise the STG compiled a list of 7 outside bodies which could be actively considered by the group to potentially meet the criteria of receiving a SRA.
  - Cheltenham Recovery Task Force
  - Communities Partnership
  - District Councils' Network
  - Gloucestershire Airport Consultative Committee
  - Gloucestershire Playing Fields Association
  - Twinning Association Executive Committee
  - UBICO

The STG would like to highlight at this stage however that these bodies were not where Members held the role as director or trustee, as this would be beyond the remit prescribed by the Overview and Scrutiny Committee.

12. **The STG therefore would like to request O&S to consider if it wishes the group to progress any further work in this regard.**

**Cllr Martin Horwood (Chair)**

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**Cheltenham Borough Council  
Council – 7 December 2020  
Annual Report on Overview and Scrutiny**

<b>Accountable member</b>	<b>Chair of Overview and Scrutiny Committee, Councillor Chris Mason</b>
<b>Accountable officers</b>	<b>Democratic Services Team Leader, Bev Thomas</b>
<b>Accountable scrutiny committee</b>	<b>Overview and Scrutiny Committee</b>
<b>Ward(s) affected</b>	<b>All indirectly</b>
<b>Significant Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>The Overview and Scrutiny Committee manages and coordinates scrutiny at the council, with scrutiny task groups carrying out the detailed work and reporting back to the main committee.</p> <p>Under these arrangements the Overview and Scrutiny Committee produce an annual report for Council and this is contained in Appendix 2. This report sets out the achievements of scrutiny between April 2019 and March 2020, including the outcomes of the scrutiny task groups, as well as detailing ‘what’s next’.</p> <p>Scrutiny endorsed the annual report at their meeting on the 2 November 2020 and welcomes the opportunity for Council to debate this report and give its views on the success or otherwise of the scrutiny arrangements.</p>
<b>Recommendations</b>	<b>Council is asked to note the Annual Report of Overview and Scrutiny 2019-20.</b>

<b>Financial implications</b>	<p>There are no direct financial implications arising from this report. The annual budget proposals and the scrutiny of financial performance and other budgetary issues are reviewed throughout the year by the Budget Scrutiny Working Group, as detailed in the section on Task Groups in the annual Scrutiny report.</p> <p><b>Contact officer:</b> Paul Jones, Executive Director Finance and Assets <a href="mailto:paul.jones@cheltenham.gov.uk">paul.jones@cheltenham.gov.uk</a> Tel: 01242 264365</p>
<b>Legal implications</b>	<p>There are no legal implications arising from the recommendation within this report.</p> <p><b>Contact officer:</b> One Legal - <a href="mailto:legal.services@tewkesbury.gov.uk">legal.services@tewkesbury.gov.uk</a></p>
<b>HR implications (including learning and organisational development)</b>	<p>There are no direct HR implications arising from this report.</p> <p><b>Contact officer:</b> Corry Ravenscroft, HR Business Partner - West <a href="mailto:Corry.Ravenscroft@publicagroup.uk">Corry.Ravenscroft@publicagroup.uk</a></p>

<b>Key risks</b>	The original risk assessment which accompanied the report to Council in December 2011 has been updated with an assessment of the current risks affecting the effectiveness of the O&S arrangements and is attached as Appendix 1.
<b>Corporate and community plan Implications</b>	An effective overview and scrutiny process can contribute to positive outcomes on any of the objectives in the Corporate Strategy.  Increased public involvement in Overview and Scrutiny will support the council's objective to listen and respond to local communities and their issues.
<b>Environmental and climate change implications</b>	None

<b>Report author</b>	<b>Contact officer:</b> Saira Malin, Democracy Officer <a href="mailto:saira.malin@cheltenham.gov.uk">saira.malin@cheltenham.gov.uk</a> Tel: 01242 274129
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Annual Report</li> </ol>
<b>Background information</b>	<a href="#"><u>Overview and Scrutiny Committee meeting (2 November) – DRAFT minutes</u></a>

The risk				Original risk score (impact x likelihood)			Managing risk		
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-4	Likelihood 1-6	Score	Control	Action	Comments as at September 2019
	If any scrutiny arrangements are not supported by a change in culture across members and officers they may not be successful in delivering the outcomes required.	Democratic Services Team Leader	27/9/11	3	3	9	Reduce	Ensure we take every opportunity to review our scrutiny arrangements. The scrutiny review will provide an opportunity to enhance our scrutiny arrangements where necessary.	Member training was held in May 2019. Scrutiny is covered as part of the corporate induction and Officer training is offered on a regular basis. Campbell Tickell undertook a review of scrutiny and fed back their findings and recommendations in February 2020. A Task Group has been established to devise an action plan for delivery of the recommendations.
	If the council cannot dedicate resources to support the scrutiny process then the O&S process will not be fully effective.	Democratic Services Team Leader	1/12/11	3	2	6	Accept	Optimise the use of existing resources within the scrutiny arrangements	It is acknowledged that facilitation support from Democratic Services for scrutiny task groups is important and all task groups have been supported. Resources are limited across the council so members will need to carefully prioritise all scrutiny task group reviews to ensure they make optimum use of the resources available. In February 2020, the Campbell Tickell review team suggested that the committee should review and determine how enquiry topics are to be identified; should they be focused on the delivery of the council's corporate plan? They felt that this would make better use of finite resources and help negate

									possible tension between Cabinet and the committee.
	If the task groups operate outside of the democratic process, then scrutiny could become disjointed and progress difficult to control and track.	Democratic Services Team Leader	1/12/11	3	2	6	Accept	Guidance to officers supporting task groups on keeping documentation and reporting back to Democratic Services.	See note above. In the past, task groups facilitated by officers outside of democratic services have on occasion been less well documented and more difficult to track progress of. A scrutiny guide was produced and officers are encouraged to adopt standard procedures and good practice. Task groups in the last 12 months have been supported by Democratic Services.
	If members do not put themselves forward for task groups the workload could be unevenly shared across members and be a source of potential conflict or result in task groups not having the right skill mix.	Group Leaders	1/12/11	3	3	9	Reduce	Utilise the skills audit.  Group Leaders to manage, monitor and encourage participation.  Task groups to maintain records of attendance.	Only one task group was established during 2019-20 and this provided an opportunity to introduce members, who had not previously participated in a review, to how task groups operate. It is hoped that other members will put themselves forward should a topic of interest arise.
	If scrutiny does not have any dedicated budget it will be difficult to promote public involvement and engagement	Council	1/12/11	2	3	6	Accept	Utilise relevant project budgets  Consider allocating small budget to O&S as part of budget round	Scrutiny does not have a dedicated budget but this has not been a significant issue to date, with budget having been allocated to member training and a scrutiny review in 2019.  It could become an issue if O&S wished to procure some external expertise at any point.
	If O&S does not take an active role in the major change programmes it may	Chair of O&S	21/09/15	3	2	6	Accept	O&S to include scrutiny of change programmes in its workplan and	Member seminars continue to be held at appropriate times and the relevant Cabinet Members have been invited to discuss particular programmes and projects as necessary and additional

	lose its opportunity to influence the scrutiny arrangements in any new proposed ways of working							ensure it is consulted on any future scrutiny arrangements	information can be requested.
	If scrutiny is not carrying out the full extent of its role i.e. pre and post decision scrutiny and overview, there is a risk of a democratic deficit.	Democratic Services	25/7/17	3	2	6	Accept	Ensure new member and staff inductions cover the full extent of the role of scrutiny.	Member training was undertaken in May 2019 and officer training is arranged on a regular basis.  Further member training was scheduled to form part of the 2020 new member induction after the May elections, which were subsequently deferred.  Consideration is being given to how scrutiny training could be included on the councils new Learning Management System.

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-4 (4 being the greatest impact)

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

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

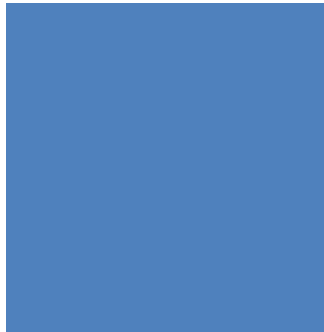
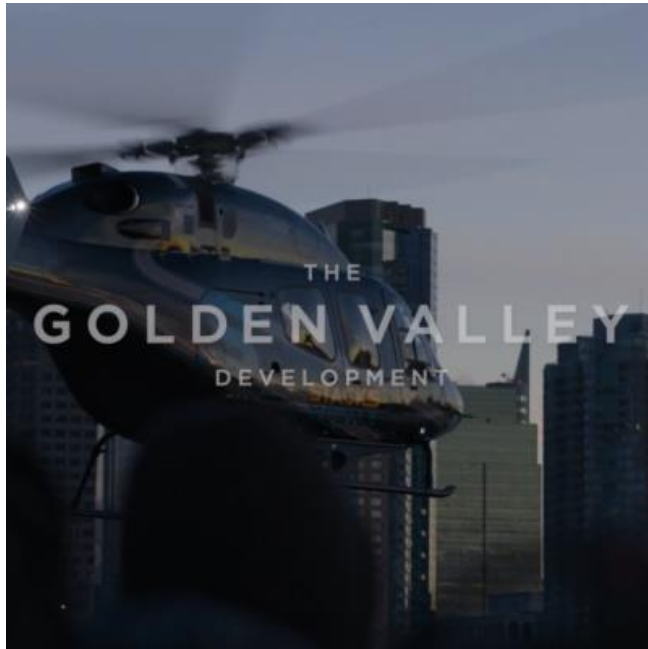
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# **SCRUTINY ANNUAL REPORT 2019-20**



Marketing Cheltenham





# FOREWORD

## COUNCILLOR CHRIS MASON, CHAIR OF OVERVIEW AND SCRUTINY COMMITTEE

As Chair of the Overview and Scrutiny Committee, I am pleased to present the Annual report for 2019/20.

Before starting I would like to thank Councillor Klara Sudbury, Councillor John Payne, Daren Knight and Saira Malin for their invaluable support.

In essence the work of the committee is to be a “critical friend” to the Cabinet, Council and external partners. Naturally this requires asking challenging and searching questions. As to be expected, those presenting to the committee have addressed its concerns in an open manner.

For me the key piece of work during 2019/20 was the commissioning of the Campbell Tickell report. The company was asked to review the work of the committee, how it operated and the range of issues it considered. I would recommend reading the report to any Member of the Council. The report made a number of recommendations but perhaps the two most important are the need to focus on what the Council can influence, and review how the meetings are conducted. With regard to the latter, the expectation is that members now have all reports coming to the committee seven days in advance. Thus providing an opportunity to forward questions to those presenting in advance of the meeting itself. The adoption of this practice means that more time can be spent on discussing the heart of the matter, and where relevant make justified recommendations. All of Campbell Tickell’s recommendations were accepted by the O&S Committee.

As can be seen in the annual report below, the committee has considered a number of relevant issues. Some such as unauthorised encampments, Police & Crime Commissioner’s annual report and NHS – Fit for the Future, involved input from partner organisations, for which I thank them for their openness and candour. Other issues considered included high street improvements, public conveniences, climate change, the North Place site, strategic waste and marketing Cheltenham.

I hope Members find the annual report of interest and would be pleased to answer any questions when it is presented to the Council.

# DARREN KNIGHT

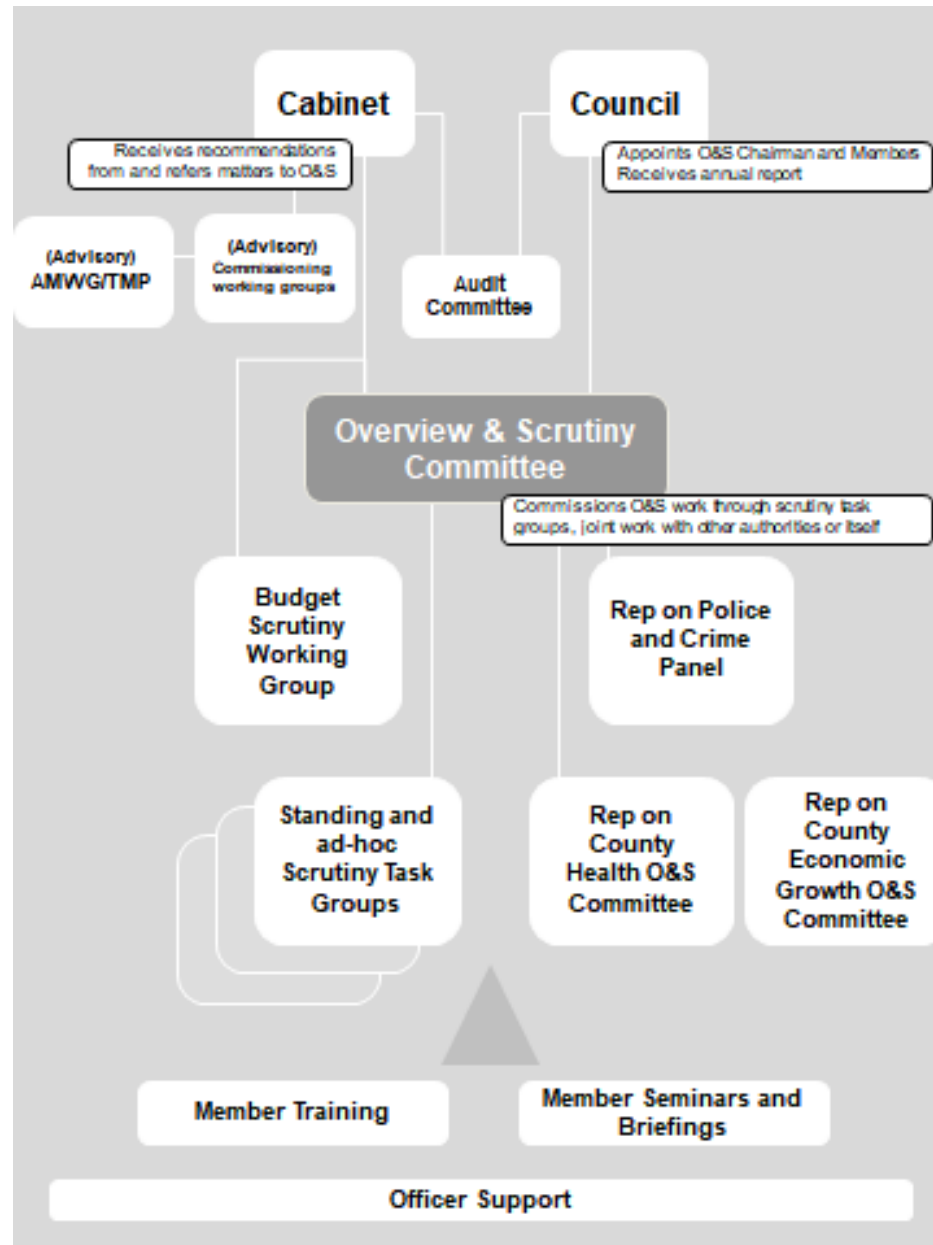
## EXECUTIVE DIRECTOR OF PEOPLE & CHANGE

The role that the committee plays in local democracy in holding to account both members and officers is as important as ever, as the authority, the town, and in fact the whole country, continues to experience a period of significant change.

With the Council progressing major projects such as the Golden Valley Development and the £100m housing investment plan, it was good to see the Committee commission an independent review to help identify ways to further improve their effectiveness, as they will have a key role reviewing the progress of these initiatives and as well as other ambitions the Council is taking forward.

The findings from the review have been positively welcomed by the committee and put into an action plan to take forward with a dedicated task and finish group established.

# OVERVIEW & SCRUTINY STRUCTURE



# TASK GROUPS

## BUDGET SCRUTINY

The Budget Scrutiny Working Group (BSWG) is a small but effective group that keeps a careful watch on in-year spend and the developing budget for the following year. Input from the group is particularly important since the council is now diversifying the way in which it raises income to support services it provides in light of the financial challenges it is facing.

During the year we took an active interest in all budget areas. We had our usual opportunities to consider the quarterly budget monitoring reports and the financial outturn report and to scrutinise the General Fund and HRA budget proposals for 2020/21. We acknowledged the difficult economic conditions the council was operating in and looked ahead to the challenges that the council may face as a result of the Covid pandemic. Achieving a balanced budget continues to be a challenge for this Council and therefore there remains an important role for the budget scrutiny working group throughout the year.

I would like to put on record my thanks to Andrew Knott for all his support to this group going forward, and we all wish him well with his new role as Section 151 officer at Forest of Dean District Council.

The Executive Director – Finance and Assets commented that “ this has been a valuable process which has given members an opportunity to input into the development of the budget proposals and key initiatives which has added value to the process. BSWG have also provided an independent review of the financial performance of the council during the year, as well as considering the final outturn position and our approach to commercialisation. The financial position remains challenging and it is both helpful and important to have a forum for deeper consideration of the issues facing the council and wider member influence over the strategy for dealing with it.”

# TASK GROUPS

## EVENTS TASK GROUP

A review of events management was initiated by the Overview and Scrutiny Committee in 2019, with a task group being asked to **identify strengths and weaknesses of the increased commercialisation strategy, and to identify possible improvements to the process of events application, approval and management.**

The Task Group made a total of 19 recommendations having heard evidence from relevant officers, community groups and event organisers. These were categorised under 5 key themes:

1. Community/engagement
2. Process
3. Events strategy
4. Commercial
5. Enforcement

The group considered that their recommendations would:

Improve transparency and efficiency with the events process;

Improve engagement with community impacted by events in their locality;

Guide the drafting of the events strategy;

Strengthen Land Use Agreements and the consequently the council's approach to enforcement.

The Overview and Scrutiny Committee fully endorsed the report for consideration by Cabinet, as well as a minority report which was produced by one of the members of the task group.

The recommendations within both reports were noted and the Cabinet Member Healthy Lifestyles committed to fully considering the recommendations and formally responding by taking a report to Cabinet. This was in March 2020 and in May 2020 the Interim Events Strategy was agreed by Cabinet and a commitment made to review the minority report post Covid-19, when time could be dedicated to reviewing the options and engaging with officers.

# SCRUTINY REVIEW

In July 2019, Campbell Tickell were commissioned to undertake a review of the council's Overview and Scrutiny (O&S) Committee. The key aim of the review was to make recommendations as to how the O&S Committee could be more effective and what changes could be made to ensure it made a tangible difference to the work of the council, and also consider whether existing resources were sufficient to support effective scrutiny.

The review was conducted through a combination of a desk-top review of governance and constitutional documentation; interviews with council officers, committee members and the leader of the council; and observation of a committee meeting.

Campbell Tickell presented their findings to the committee in January 2020 and then reported their recommendations, unchanged, in February. The committee resolved to establish a task group to look at the recommendations, how best they could be implemented and devising an action plan.

The ambitions and outcomes for this task group were agreed in September 2020, after a number of committee meetings were cancelled due to Covid-19.

# OTHER SUCCESSES

In addition to standard items, including reviewing Council performance, briefings from the Leader on key issues and regular updates from representatives on county-wide scrutiny groups, the Overview and Scrutiny Committee:

## High Street Improvements

Reviewed plans for public realm improvements, since the focus had moved from Boots Corner, to the Strand and Cambray Place. Members were able to discuss the scope of the work and achieve a better understanding of who had responsibility for future repairs.

## Call-in

Dealt with the call-in of a decision relating to the proposed removal of four bring bank sites. Ultimately, the committee supported the cabinet decision without qualification or comment, given that the decision was simply to undertake further consultation.

## Unauthorised encampments

A representative of Gloucestershire Constabulary provided the committee with a better understanding of the Police powers when dealing with unauthorised camping, as well as commenting on proposed legislative amendments aimed at improving the effectiveness of enforcement against unauthorised encampments.

## Public conveniences

Considered a report which identified a number of options for the future provision of public conveniences in the town; with the aim of providing access to a greater number of well-maintained and more accessible facilities. The committee supported the preferred option within the report, for a community partnership scheme initiative.

# OTHER SUCCESSES

## Police & Crime Commissioner

Gloucestershire's Police and Crime Commissioner, Martin Surl, attended a meeting of the committee to discuss his annual report and answer questions. Members of the committee questioned the value of such updates and whether these should continue in the future.

## NHS – Fit for the Future

Members felt that the public would find it as difficult to comment, as they had, given the lack of any proposals. The request was that they come back once the consultation phase had begun, and well in advance of any decisions being taken, so that members of this council would have the opportunity to comment on actual proposals.

## Climate Change

Having declared a Climate Emergency in July 2019, the committee heard from Simon Graham, a consultant who had assisted with the development of an action plan. He talked through some potential concepts which would result in greater carbon reduction, including reduction; generation; engagement of the wider community, and; connecting with other organisations.

## Crematorium project

The committee had monitored the project closely throughout delivery and felt it would be useful to hear about any lessons learned, given the scale of the project.

## North Place

Members were provided with an update on the current situation and future plans for this site. This was commercially sensitive and as such was held in exempt session, but the committee welcomed the opportunity to understand more about it.



# OTHER SUCCESSES

## Town Hall redevelopment

Given the conclusions of the work that had been done, there were 5 redevelopment options and having discussed the merits and limitations of each option, the committee ultimately supported the continued preservation of the building and the need to modernise.

## Strategic waste

Officers and the Cabinet Member explained the drivers behind consideration into the future waste site relocation and some of the possible options that could be considered. The committee asked that they be given the opportunity to consider any future proposals.

## Air quality

A detailed assessment confirmed the need to re-define the Air Quality Management Area (AQMA). By law the council had to revoke the existing borough-wide AQMA and simultaneously declare a new, smaller one. The committee considered the new AQMA and asked for further updates specific to schools.

## Social Value policy

The council sought to use legislation, to secure wider social, economic and environmental benefits when commissioning or procuring services and tabled an initial draft social value policy. Members supported the proposal, given the substantial procurement activities that would be undertaken as part of the cyber central project and the housing investment plan.

## Marketing Cheltenham

The committee was introduced to Marketing Cheltenham which was officially launched in 2017 as the town's official 'in-house' Destination Marketing Organisation. It's principal purpose was to lead delivery of Cheltenham's Visitor Economy Strategy, which sought to grow the town's visitor economy by 5% p/a from 2019 to 2021 and they outlined the 4 priorities which underpinned the work programme.

# CABINET MEMBER WORKING GROUPS

Cabinet member working groups are fundamentally different to scrutiny task groups in that they are set up and chaired by the Cabinet Member and their aim is to assist the Cabinet Member in formulating their final report to Cabinet. By contrast scrutiny task groups are scrutiny led and can only make recommendations to Cabinet or Council or another body.

However, what they do have in common is that very often Cabinet Member working groups are helping to formulate new policy and offer challenge which are both key parts of the overview and scrutiny function. Both involve non-Executive Members.

The working groups for 2019/20 included:

- Asset Management Working Group
- Planning and Liaison Member Working Group
- Housing Supply
- Members' ICT
- Waste and Recycling

# WHAT'S NEXT?

Please note that this report looks back over the work undertaken by the committee between April 2019 and March 2020 and as such, this section may refer to events which have already taken place and which will be covered in more detail in the 2020/21 Annual Report. Also, the work of the committee is in no way limited to the items listed below.

**Covid-19** – this will be a major focus for the committee in 2020/21, with them looking at a range of things including performance, lessons learned and the Recovery Plan. The committee will also look at how the pandemic has impacted shared services and organisations including The Cheltenham Trust.

**Golden Valley Development** – the committee have requested updates, at appropriate junctures of this project, which represents the biggest project ever undertaken by the council.

**Outside Bodies Special Responsibility Allowance STG** – the task group will understand the options and restrictions relating to such payments, look at what other authorities do, consider the budget implications of any payments and then make recommendations to the Independent Remuneration Panel regarding payments of SRAs to members who are appointed to outside bodies as non-executive directors or trustees.

**O&S Review STG** – the task group will review the recommendations made by Campbell Tickell, decide how best they can be implemented and devise an action plan, which once approved will be monitored by the O&S Committee.

**(NHS) Fit for the Future** – the council will consider proposals put forward as part of the 'Fit for the Future' consultation and this may or may not be undertaken by the committee, or full Council.

# CONTACTS

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Harry Mayo

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**Phone:**

01242 264246

**Cheltenham Borough Council  
Cabinet – 1 December 2020  
Council-7 December 2020  
Licensing Act 2003 Licensing Policy Statement**

<b>Accountable member</b>	<b>Councillor Andrew McKinlay, Cabinet Member Cyber and Safety</b>
<b>Accountable officer</b>	<b>Mike Redman, Director of Environment</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>Section 5 of the Licensing Act 2003 requires the Council to review, determine and publish its Licensing Act 2003 Policy Statement every five years.</p> <p>The current policy statement was adopted by Council in December 2015. A review of the current policy statement has been undertaken as outlined in this report.</p> <p>Consultation has been undertaken and this report provides Cabinet with opportunity to consider the feedback, approve the revised policy, subject to any changes made, and recommend to Council adoption of the revised licensing statement.</p>
<b>Recommendations</b>	<p><b>Cabinet is recommended to:</b></p> <ol style="list-style-type: none"> <li><b>1. Note the consultation feedback and officer comments; and</b></li> <li><b>2. Approved the revised licensing policy statement at Appendix 2; and</b></li> <li><b>3. Recommend to Council adoption of the revised licensing policy statement.</b></li> </ol> <p><b>Council is recommended to :</b></p> <ol style="list-style-type: none"> <li><b>1. Adopt the revised licensing policy statement</b></li> </ol>
<b>Financial implications</b>	<p>No financial implications arising from this report.</p> <p><b>Contact officer: Jon Whitlock, Jon.Whitlock@publicagroup.uk</b></p>

<b>Legal implications</b>	<p>Cheltenham Borough Council is a Licensing Authority and section 5(1) of the 2003 Act requires the Council in respect of each 5 year period to determine its policy with respect to the exercise of its licensing functions, and to publish a statement of that policy before the beginning of the period. The Council's current Statement of Licensing Policy is effective from December 2015 and therefore the fresh Policy needs to have been determined and published by December 2020.</p> <p>When preparing its licensing policy, the Council is required to have regard to the following:</p> <ul style="list-style-type: none"> <li>• Promoting the 4 licensing objectives, namely: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm;</li> <li>• Statutory guidance issued by the Secretary of State; and</li> <li>• The 2003 Act.</li> </ul> <p>In its consideration of this Report and its recommendations, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty).</p> <p><b>Contact officer: Vikki Fennell, <a href="mailto:Vikki.fennell@tewkesbury.gov.uk">Vikki.fennell@tewkesbury.gov.uk</a>, 01684 272015</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>While there are no direct HR implications as a result of the report, there may be additional monitoring work required or other work resulting from some of the changes. Workloads and working hours of officers should be reviewed regularly to ensure any additional demands are able to be met with the available capacity.</p> <p><b>Contact officer: Clare Jones, <a href="mailto:clare.jones@publicagroup.uk">clare.jones@publicagroup.uk</a></b></p>
<b>Key risks</b>	<b>As identified in Appendix 1</b>
<b>Corporate and community plan Implications</b>	<p>Cheltenham has a strong and sustainable economy</p> <p>Communities feel safe and are safe.</p> <p>Our residents enjoy a strong sense of community and involved in resolving local issues.</p>
<b>Environmental and climate change implications</b>	None
<b>Property/Asset Implications</b>	None <b>Contact officer: <a href="mailto:Dominic.steed@cheltenham.gov.uk">Dominic.steed@cheltenham.gov.uk</a></b>

## 1. Background

- 1.1 Section 5 of the Licensing Act 2003 (“2003 Act”) requires the Council to review, determine and publish its Licensing Act 2003 Policy Statement (“policy statement”) every five years.

## 2. The Licensing Act 2003

- 2.1 The 2003 Act is the primary legislation that deals with the licensing requirements relating to:
- a) the sale by retail of alcohol,
  - b) the supply of alcohol by or on behalf of a club to, or to the order of a member of the club,
  - c) the provision of regulated entertainment, and
  - d) the provision of late night refreshment.
- 2.2 The licensable activities listed above are authorised through the issue of:
- a) a premises licence; or
  - b) a club premises certificate; or
  - c) a temporary event notice.
- 2.3 The council is obligated to promote the four licensing objectives when discharging its functions under the 2003 Act including setting policy. The licensing objectives are:
- a) the prevention of crime and disorder;
  - b) public safety;
  - c) the prevention of public nuisance; and
  - d) the protection of children from harm.

## 3. The Policy Statement

- 3.1 The draft proposed policy statement is attached at **Appendix 2** of this report.
- 3.2 The policy statement sets out the principles the council will apply when determining applications under the 2003 Act for up to the next five years. It also provides guidance to licence holders and applicants on how to make an application and advises them how the council will determine applications.
- 3.3 The draft amended policy reflects changes in primary legislation, case law and national guidance. Changes to the policy also draw from the council’s experience since the 2003 Act came in to force.
- 3.4 The profile of alcohol in particular has become a popular issue locally. Its availability has caused, and continues to cause, problems for the council and other regulatory partners in, for example, the prevalence of pre-loading, crime, disorder, street drinking, underage sales and public nuisance.
- 3.5 Equally however, there is recognition that the trade in alcohol has benefits for the town particularly in relation to the economic contribution made through, for example, a vibrant and popular night-time economy that draws thousands of people on most nights and investment in the town by

businesses selling alcohol.

- 3.6 This policy statement is a key document for the council in terms of how it seeks to address the challenges brought by the licensable activities whilst at the same time promoting the town as a safe place to visit and invest.
- 3.7 This policy statement also forms part of a wider night-time economy strategy to promote a greater diversity in the night time economy that is less focused on alcohol, supporting better management of licensed premises and public spaces, working to reduce alcohol related health harms by preventing vulnerability, promoting safe drinking limits and reducing pre-loading and working to promote a clean environment.
- 3.8 In the context of the wider night-time economy strategy, this policy statement sits alongside initiatives such the implementation of the Reducing Alcohol Related Violence (RARV) project, the alcohol coordination group and the REST outcomes and priorities.
- 3.9 Taking into account all of the measures above, the policy statement proposes a more proactive policy approach to the regulation of the licensable activities whereby the council is more proactive and prescriptive in shaping the licensing landscape in the town. For example, the proposed amended policy sets out measures to identify certain areas where more intensive intervention may be appropriate, proposes recommended core trading hours & admission times, better management of outside areas and seeks to introduce a best practice guide for drinks promotions.
- 3.10 This is a change from the current policy that is much more reactive in that it deals with matters on a case to case basis without being particularly prescriptive.
- 3.11 The amended new policy statement sets out a proposed policy vision to make Cheltenham a safe and clean town that offers a greater diversity in the night time economy that is not solely focused on alcohol and that protects the quality of life for residents. In order for the council to achieve this vision, it must become more proactive in shaping the licensing landscape in the town.

#### 4. Policy Amendments

- 4.1 Since the last statement of policy review, there have been no significant changes to the national statutory guidance, primary legislation or case law that would substantially affect the policy. Consequently, there are no significant changes proposed as part of this policy review.
- 4.2 The draft revised statement of policy document at **Appendix 2** shows tracked changes for the purpose of clarity. The tracked changes will be removed for the consultation version.
- 4.3 Aside from general tidying up and general updates, the following changes are highlighted for reference:
  - 4.3.1 Inclusion of a new paragraph on “Promotion of equality (1.12)”;
  - 4.3.2 Removal of reference to Late Night Levy that no longer applies to Cheltenham;
  - 4.3.3 Inclusion of an additional section (6.13) to reflect the statutory guidance stating that the planning and licensing regimes are to be treated as separate regimes to avoid duplication and inefficiency;
  - 4.3.4 Replacing section on “Designated Public Places Orders” with “Public Spaces Protection Orders”; and
  - 4.3.5 Inclusion of a new section (6.66) to confirm the authority has not passed a resolution to exempt late night refreshment licensing based on designated locations, premises types and times.



## 5. Statutory Guidance

- 5.1 Section 4 of the 2003 Act states that, in carrying out its functions, the Council must 'have regard to' guidance issued by the Secretary of State under section 182.
- 5.2 Attached at **Appendix 3** is a copy of the relevant part of the statutory guidance for Members' information.

## 6. Reasons for recommendations

- 6.1 To ensure that the Council complies with its duties under section 5 of the 2003 Act.
- 6.2 To ensure that the Council can effectively discharge its licensing function under the 2003 Act.

## 7. Alternative options considered

- 7.1 The Council can resolve not to adopt the revised policy statement. However this option would result in the Council failing to comply with its duty and function under the 2003 Act.
- 7.2 Alternatively, the Council can resolve to readopt its current policy without change but this is likely to result in the Council being unable to effectively discharge its licensing function under the 2003 Act.

## 8. Consultation and feedback

- 8.1 Section 5(3) of the 2003 Act stipulates a number of statutory consultees the Council must consult with when determining its policy statement. These are the chief officer of police, the fire authority, the representatives of premises and personal licence holders and club registration certificates as it sees fit, and other persons that are seen to represent businesses and residents in the area.
- 8.2 A list of consultees is outlined in Appendix A of the revised policy.
- 8.3 During the consultation period, the Licensing Committee was the only respondent. Their response is outlined in **Appendix 4** including officer response. The relevant policy changes have been incorporated in the revised policy document for approval and recommendation for adoption.

<b>Report author</b>	<b>Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk</b> <b>01242 26 4135</b>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Draft proposed policy statement</li> <li>3. Chapter 14 of the Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)</li> <li>4. Consultation feedback and officer response</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. <a href="#">Licensing Act 2003</a></li> <li>2. <a href="#">Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)</a></li> <li>3. <a href="#">Cheltenham Borough Council's Licensing Act 2003 Licensing Policy Statement Approved by Council, 14 Dec 2015</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
	There is a risk that the council may not be able to properly regulate activities under the Act if it fails to adopt the revised policy.	Director of Environmental	November 20	3	2	6	Accept	Approve revised policy for adoption.		Licensing Team Leader	
	The review and adoption of this policy is a statutory requirement, if the authority does not adopt a revised policy statement it will be failing in this duty and might face legal challenge from licence holders, responsible authorities and/or the wider public.	Director of Environmental	November 20	3	3	9	Accept	Approve revised policy for adoption.		Licensing Team Leader	
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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)</p> <p><b>Likelihood</b> – 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)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

# Licensing Act 2003

## Licensing Policy Statement



**All enquiries should be directed to:**

Licensing Section  
Municipal Offices  
Promenade  
CHELTENHAM  
GL50 9SA  
Tel: 01242 775200  
E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
Website: [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)

**This Policy was approved December 2015.**

## Draft LA2003 Policy Index

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DRAFT

## **Policy Vision Statement**

We want Cheltenham to be a safe and clean town that offers a greater diversity in the night time economy that is less focused on alcohol and protects the quality of life for residents.

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## 1. Introduction

- 1.1 This Licensing Policy Statement (“policy”) has been produced in accordance with the requirements of the Licensing Act 2003 (“the Act”) and is in line with guidance issued under Section 182 of the Act. Section 5 (as amended) of the Act requires Cheltenham Borough Council (“the authority”), acting in its capacity as the Licensing Authority to prepare and publish a statement of its licensing policy at least every five years.
- 1.2 This policy was last reviewed in 2014. In determining the policy the authority has taken into consideration any comments made by consultees. The authority has also taken into consideration the statutory guidance, changes in legislation and the experience of administering and enforcing the Act since its introduction.
- 1.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the authority will determine applications for the sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the authority over the next five years. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting tourism, increasing leisure provision and encouraging the regeneration of the town centre as well as controlling the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.5 Other matters also taken into account in formulating this policy:
  - a) Cheltenham Borough Council’s corporate strategy and outcomes.
  - b) Local planning policy in particular the Joint Core Strategy and the Cheltenham Plan.
  - c) Gloucestershire’s Police and Crime Plan.
  - d) Section 182 statutory guidance.
- 1.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual licensees. There are a range of mechanisms including:
  - a) Planning controls;
  - b) Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including the provision of Closed Circuit Television (CCTV);
  - c) Police enforcement of the general law concerning disorder and anti social behaviour, including the issuing of fixed penalty notices;
  - d) The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;

- e) The confiscation of alcohol from adults and children in designated areas;
  - f) Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
  - g) The power to seek a review of the licence or certificate in question.
- 1.7 It should be understood that this policy and the statutory guidance cannot anticipate every scenario or set of circumstances that may arise and as such there may be circumstances where the policy or guidance may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the authority will give full reasons for departing from this policy.

## Licensing Principles and Process

- 1.8 This policy sets out the process the authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the authority's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 1.9 The authority is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and administering temporary events notices in the borough.
- 1.9 The objective of this policy is to:
- a) promote the four licensing objectives;
  - b) ensure that the premises are appropriate for their proposed use;
  - c) ensure the premises layout and condition is acceptable for the proposed use;
  - d) ensure that the premises are being managed responsibly; and
  - e) promote the policy vision statement.
- 1.10 This policy also seeks to promote the authority's wider priorities, in particular that:
- Cheltenham has a clean and well-maintained environment;
  - Cheltenham has a strong and sustainable economy;
  - Communities feel safe and are safe;
  - People are able to lead healthy lifestyles; and
  - Our residents enjoy a strong sense of community and are involved in resolving local issues.
- 1.11 The authority's powers and duties as the licensing authority are delegated by Council to its licensing committee, sub-committees and officers. The authority approaches these delegations in accordance with the table of delegation set



out below or otherwise in accordance with the authority's adopted constitution.

- 1.12 The policy will be used as a basis in coming to consistent and transparent decisions in respect of licence applications.
- 1.13 The policy does not:
  - a) Undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits; or
  - b) Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the Act allows.

## Scope

- 1.14 This policy relates to the licensable activities defined by section 1(1) of the Act, namely:-
  - a) retail sales of alcohol;
  - b) the supply of alcohol by or on behalf of a club;
  - c) the provision of regulated entertainment; and
  - d) the provision of late night refreshment.

## Licensing Objectives

- 1.14 The authority will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
  - a) The prevention of crime and disorder;
  - b) Public safety;
  - c) The prevention of public nuisance; and
  - d) The protection of children from harm.
- 1.15 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 1.16 In determining a licensing application, the overriding principle adopted by the authority will be that each application is determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to promote the licensing objectives will be imposed.
- 1.17 The authority will also have regard to wider considerations affecting the residential population and the amenity of the area. These include littering, noise, street crime and the capacity of the infrastructure.
- 1.18 Each of the four objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity.

## **Consultation**

- 1.19 In accordance with section 5 of the Act and prior to the publication of this Policy the Licensing Authority consulted with the persons and organisations stipulated in [Appendix A](#) of the policy.

## **Duration and Review**

- 1.20 The policy takes effect xx and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

## **Promotion of equality**

- 1.21 The policy recognise that the Equality Act 2010 places a legal obligation on this authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics through the functions outlined in this policy. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

## 2. The Borough of Cheltenham

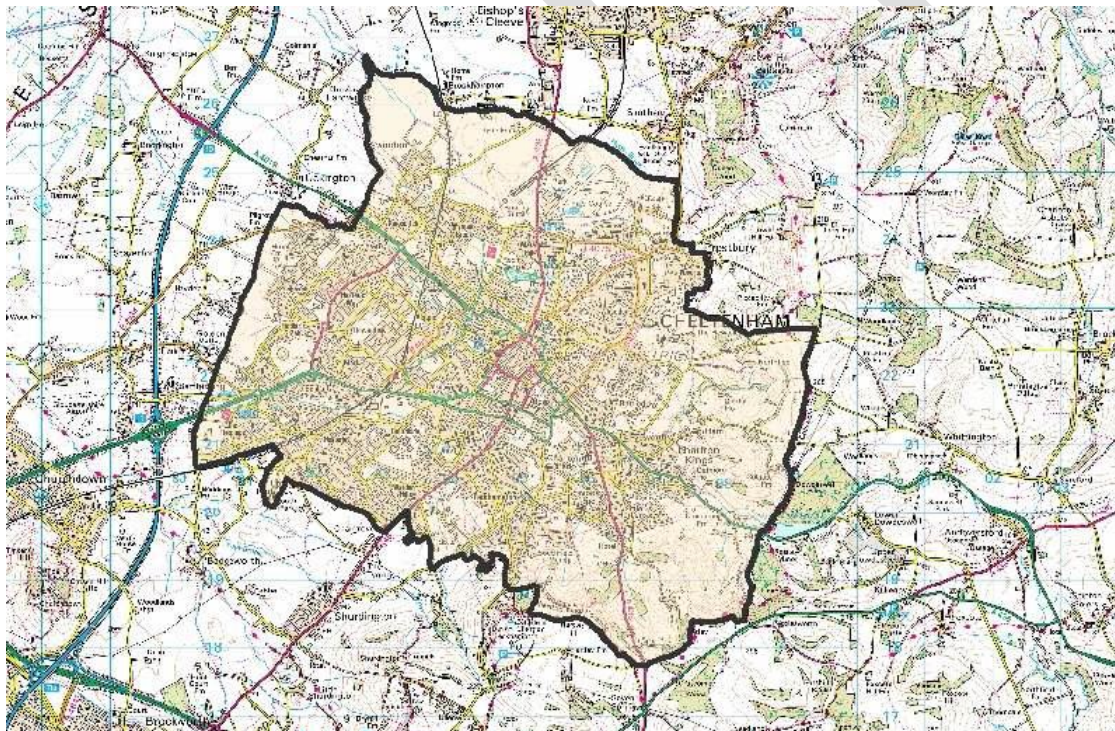
### The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 114,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

### Demography

The population is approximately 114,000, and these figures will continue to rise over the next 20 years.



## 3. Licensing Process - Making an Application

### Premises Licences & Club Premises Certificates

- 3.1 The relevant application forms and associated documents are obtainable from the authority's website at <http://www.cheltenham.gov.uk/licensing> or from the licensing section during normal office hours.
- 3.2 The authority offers pre-application advice for certain licence application types. For more information on the pre-application advice, please visit the [website](#).

### The Operating Schedule

- 3.3 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The authority expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives.
- 3.4 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application.
- 3.5 Applicants are strongly recommended to discuss their operating schedules with the responsible authorities prior to submitting them.
- 3.6 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. For premises such as a public house where public entertainment is not provided, only a relatively simple document will be required. For a major public entertainment venue it will be expected that issues such as public safety and crime and disorder will be addressed in detail.
- 3.7 Applicants will also be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.
- 3.8 The operating schedule must be on the prescribed form and include a statement of the following:
  - a) Full details of the licensable activities to be carried on at and the intended use of the premises;
  - b) The times during which the licensable activities will take place;
  - c) Any other times when the premises are to be open to the public;
  - d) Where the licence is only required for a limited period, that period;
  - e) Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
  - f) Whether alcohol will be supplied for consumption on or off the premises or both; and

- g) The steps which the applicant proposes to promote the licensing objectives.

### **Guidance on Operating Schedule**

- 3.9 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

#### **a) Crime and Disorder**

- 3.10 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in promoting this objective.
- 3.11 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

#### **Considerations**

- 3.12 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These factors may include:
  - a) Underage drinking;
  - b) Drunkenness on premises;
  - c) Public drunkenness;
  - d) Drugs;
  - e) Violent behaviour; and/or
  - f) Anti-social behaviour.
- 3.13 In making their decision, regard should be given to the levels of crime and disorder in and around the venue, the level of compliance with conditions on existing licences and any available evidence on crime and disorder issues.
- 3.14 Applicants are recommended to consult the Reducing Alcohol Related Violence Codes of Practice when considering their operating schedule.
- 3.15 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of crime and disorder.

**b) Public Safety**

- 3.16 The authority in its role as licensing authority must try to ensure the safety of people visiting and working in licensed premises. The authority will need to be satisfied that measures to promote public safety including risk assessments, setting safe capacities and adequate means of escape are put in place and maintained, if not adequately provided for by other regulatory regimes.
- 3.17 Consideration should be given to whether:
- a) appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the authority, that demonstrate that the public will be safe within and in the vicinity of the premises;
  - b) the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken to assess the maximum number of people in terms of capacity in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency;
  - c) there are procedures proposed to record and limit the number of people on the premises with opportunities for going outside and readmission;
  - d) patrons can arrive at and depart from the premises safely;
  - e) music, dance and performance venues will use equipment or special effects that may affect public safety (i.e. moving equipment, pyrotechnics, strobe lights, smoke machines);
  - f) there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services; and/or
  - g) the levels of compliance with conditions on existing licences relating to public safety.
- 3.18 The authority seeks to encourage the use of toughened glassware and polycarbonate where appropriate in licensed premises. Where a relevant representation is received the authority will consider imposing a condition prohibiting the sale of alcohol in annealed glass containers and require the use of polycarbonate or other safer alternatives in order to promote public safety in licensed venues.
- 3.19 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for public safety.

### **c) Public Nuisance**

#### **Measures to limit nuisance**

- 3.20 The authority will expect applicants to set out in their operating schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises.
- 3.21 Applicants should identify and describe through a risk assessment how these risks will be managed. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 3.22 Applicants will be expected to have included measures in their operating schedules that make adequate provision to:
- a) restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site;
  - b) limit the escape of noise from the premises or open air site;
  - c) restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping;
  - d) minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it;
  - e) minimise and control noise from staff, contractors and suppliers and their activities;
  - f) minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers;
  - g) determine whether people standing or sitting outside premises are likely to cause obstruction or other nuisance;
  - h) whether the premises are under or near to residential accommodation;
  - i) the hours of the sale of alcohol in open containers or food for consumption outside the premises;
  - j) measures to make sure that customers move away from outside premises when such sales cease;
  - k) measures to collect drinking vessels and crockery, cutlery and litter;
  - l) the extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink and for smoking;



- m) whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied from the premises or not).
  - n) adequate measures to prevent the following arising from the proposed licensable activity that may cause disturbance to people in the vicinity:
    - a. litter, smells, fumes, dust, smoke, or other emissions;
    - b. street fouling;
    - c. light pollution.
- 3.23 The role of the authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the town including businesses, workers, shoppers and visitors.
- 3.24 Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 3.25 Where relevant representations are received, the authority may attach appropriate conditions to licences, necessary to support the prevention of undue noise disturbance from licensed premises. Where premises remain open after 23:00, the licence holder will be expected to provide facilities which are relevant to controlling noise and the patrons of those premises late at night. The authority also expects that premises which produce noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance.
- 3.26 The provision of tables and chairs outside the premises, either on the highway or on private land, and the provision of beer gardens, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture and family friendly venues. However, late at night, tables and chairs and beer gardens can cause significant public nuisance to residents whose homes overlook these areas.
- 3.27 The 'smoke free public places' legislation in July 2007 has led to an increase in the number of people outside licensed venues. Where outside facilities are provided the authority expects applicants to provide details in their application of:
- a) the location of open air areas; and
  - b) how the outside areas will be managed to prevent noise, smell, or obstruction and nuisance to neighbours and the public.
- 3.28 Licensees and their staff are expected to have sufficient measures in place to prevent such problems arising including a suitable litter and waste



management program to ensure that the area outside the premises is kept free of litter at all times.

- 3.29 Where the authority receives relevant representations, or where a responsible authority or an interested party seeks a review, the authority may consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.
- 3.30 Conditions may include maximum noise levels over particular time periods, the installation of acoustic lobbies, provision of signs, publicity and dispersal policies.
- 3.31 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of public nuisance.

#### **d) Protection of Children from Harm**

- 3.32 The authority needs to satisfy itself that there are appropriate measures in place to protect children from harm.
- 3.33 To this extent it will expect applicants, where necessary, to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises.
- 3.34 These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licences involving:
  - a) the sale of alcohol;
  - b) children's performances; and
  - c) attractions or performances likely to attract children.
- 3.35 It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. The provisions of the Act are that unaccompanied children under 16 should not be on "premises being used exclusively or primarily for the supply of alcohol" (eg "alcohol led" premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.
- 3.36 Issues for consideration include:
  - a) installing effective measures to check the age of those young people who appear under 21 to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises;
  - b) exclusive or primary purpose of the services provided at the premises;

- c) accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance;
- d) the hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises;
- e) due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks;
- f) are there adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult;
- g) the likelihood of children being attracted to the premises by the nature of activities or facilities provided whether or not these are licensed;
- h) is there evidence of heavy, binge or underage drinking on the premises;
- i) if the premises commonly provides entertainment or services of an adult or sexual nature;
- j) is there a strong element of gambling on the premises;
- k) age restricted films are to be shown classified in accordance with the recommendations of the British Board of Film Classification;
- l) the number of adults required for the supervision of children and the suitability and vetting of those adults to ensure they pose no risk to children.

3.37 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the protection of children of harm.

## Plans

3.38 A plan must also be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. The plans do not have to be professionally drawn, however, they must be to scale and contain the relevant information as required under regulation. The authority will accept plans of a scale other than 1:100, however this must be approved prior to submitting the application.

## 4. Determination of Applications

### Decision Making Process

4.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation below:

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence		If a police objection	All other cases

condition			
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

### Unopposed Applications

- 4.2 If no relevant representations are received the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with the operating schedule accompanying the application. The authority will have no discretion to refuse the application or to alter or add to the conditions offered through the operating schedule.

### Opposed Applications

- 4.3 Where relevant representations are made, the authority must hold a hearing before a licensing sub-committee who will take such of the following steps as it considers necessary for the promotion of the licensing objectives.
- 4.4 The steps are:
- a) to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
  - b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - c) to refuse to specify a person in the licence as the premises supervisor;
  - d) to reject the application.

### Representations

- 4.5 The authority has discretion on whether to grant applications for licences and to impose conditions on granting and reviewing licences, only when relevant representations are made.
- 4.6 In brief "relevant representations" is the expression used in the Act for comments including objections on applications.
- 4.7 For a representation to be relevant it must:
- a) relate to the effect of the grant of the licence on the promotion of the licensing objectives;

- b) be made by a responsible authority or other persons;
- c) not be 'frivolous or vexatious' or, in the case of a review, 'repetitious' if made by other persons; or
- d) if it concerns the designated premises supervisor be made by a chief officer of police and include a statement explaining the reasons for the objection.

4.8 Representations can also be made in support of an application.

### **Appeals**

- 4.9 Anyone aggrieved by a decision of the authority has a right of appeal. This is set out in schedule 5 of the Act.
- 4.10 The authority will inform the appropriate parties of their right of appeal in accordance with the Act, when confirming a decision of the licensing sub-committee.
- 4.11 Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.

## 5. Temporary Event Notices (TENs)

- 5.1 The Act enables certain organised events for less than 500 people to take place following notification to the authority, the police and environmental health.
- 5.2 The limit on the number of TENs which may be given by any applicant is 5 within the same year, unless the applicant holds a personal licence, in which case the limit will be 50 within the same year.
- 5.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:
- the number of times a premises user may give a TEN is 50 times in a calendar year
  - for a personal licence holder and five times in a calendar year for other people;
  - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
  - the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
  - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
  - the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
  - the maximum number of people attending at any one time is 499; and
  - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours
- 5.4 Although the statutory legal minimum time required for the notification of a TEN to the authority, police and environmental health is 10 working days, or 5 working days for a late temporary event, it is essential that proper consideration of the proposed event is given. Statutory guidance allows the authority to publicise its preferred timescale for notification.
- 5.5 Where an existing premises licence is in operation the authority would encourage a TEN to be submitted at least 4 weeks but not more than 12 weeks before an event. For applications where there is not a current premises licence, for example community events, 15 working days in advance of the event would be encouraged to allow for proper consideration of the event.
- 5.6 The authority will encourage bona fide community events. A TEN for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation.

- 5.7 Notice givers are encouraged to consult responsible authorities prior to formal notices being submitted.
- 5.8 The authority expects those who have given notice of a temporary event to have identified the particular issues having regard to their type of premises and/or activities, and to have in place written policies for addressing issues such as drunkenness, crime/disorder and drugs on their premises and for ensuring staff are trained on these policies. The Reducing Alcohol Related Violence Codes of Practice contains guidance on promoting the licensing objectives including potential risks and possible solutions for the different types of licensable activities.
- 5.9 The processing of TENs by the authority is controlled by a strict statutory timetable, therefore, the authority will not accept a notice unless it is complete in all respects at the time of submission.

## **6. Integrating Strategies & Specific Policies**

- 6.1 The authority has established a good track record of partnership work and will continue to work in partnership with the police, local residents, businesses, licensees, communities and regulatory agencies towards safeguarding the quality of life for residents, and the creation of a safer and more pleasant environment for all.
- 6.2 In particular, Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. The town offers a rich choice of entertainment and facilities making it a destination attracting usually high numbers of visitors some travelling considerable distances to enjoy what the late night economy has to offer.
- 6.3 Although the vast majority of people visiting the town do so safely and responsibly, an active night-time economy nonetheless demands additional resource and cost for the authority, police and other partners to deal with associated crime, disorder and other anti-social behaviour.
- 6.4 Although the challenges associated with the supply of alcohol are more prevalent during the night-time economy, there are nonetheless also challenges during other times of the days.
- 6.5 In addressing these challenges, the authority will continue to work with partners in particular the licensed trade, licensing enforcement, the police, the noise pollution team, community safety partnerships, Gloucestershire fire service and planning enforcement.

### **Encouraging diversity in the night-time economy that is less focused on alcohol**

- 6.6 Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. It is recognised that the night-time economy plays an important part in creating a vibrant and sustainable economy but this must be balanced with the ambition to expand the offer for leisure, tourism and business by providing an attractive offer for all age and religious groups.
- 6.7 To this end, the authority will explore and support opportunities to increase events, activities and businesses which are not necessarily alcohol led which are more socially-inclusive and drive the economy.

### **Designated area of concern**

- 6.8 There are areas of the borough where the evidence does not suggest that they should be designated as Cumulative Impact Areas but which will require regular review to establish whether the concentration of licensed premises are considered to have begun to cause cumulative impact on one or more of the licensing objectives.
- 6.9 The authority has identified the town centre (Appendix D) as being an area of concern in that it is susceptible to alcohol related crime, alcohol hospital



admissions and nuisance arising from or caused by the customers of licensed premises.

- 6.10 The authority will monitor the number of licensed premises in the designated area and any risk factors that may indicate that the area is reaching a point when a cumulative impact is likely or imminent.
- 6.11 The designated area of concern will also provide the authority and its partners an opportunity to put measures in place to address the concerns highlighted.

### **Joint Core Strategy and other planning policies**

- 6.12 There are a number of key planning policies that sets out a shared vision and proposes where future development in the borough.
- 6.13 It is noted that the statutory guidance states: “The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.”

### **Public Spaces Protection Order (PSPO)**

- 6.13 The authority has adopted a Public Spaces Protection Order to control and regulate the public consumption of alcohol in Cheltenham.
- 6.14 The PSPO creates an offence for any person to disregard the instruction of a Police Officer, Police Community Support Officer or authorised officer of the authority to stop consuming alcohol in a designated public place.
- 6.15 An offence under the adopted PSPO can be discharged through the payment of a fixed penalty notice or a prosecution.

### **Management of Licensed Premises**

- 6.14 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management of those activities and the premises generally.
- 6.15 The authority will encourage everybody involved in providing or are involved in licensable activities, to consider what skills and competencies are appropriate in the safe delivery of regulated activities and secure these. This applies to managers, musicians, door staff, bar staff, performers and contractors as well as everyone associated with the activities.

- 6.16 Good management also extends to the appropriate advertising of events and premises users and licensees are expected to control advertising content as part of their role.
- 6.17 The authority undertakes proactive risk based inspections of all licensed premises to ensure that they are managed properly. Premises that consistently fail inspections may be subject to a licence review or other enforcement action.

### **Designated Premises Supervisor**

- 6.18 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).
- 6.19 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times. During times the DPS is not present on site, the authority recommends that written delegation of duties are drawn up to ensure staff and regulators are clear about who is authorised to sell alcohol.
- 6.20 The authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The authority expects that this will be in excess of 50% of a 7-day week.
- 6.21 The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.
- 6.22 Within all licensed premises, whether or not alcohol is to be sold, the authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises' licence.

### **Night safe**

- 6.23 The borough-wide Nightsafe network encourage its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the authority, the police and other responsible authorities. The authority actively supports the scheme and is keen to support the development of more schemes where there is a demand.

- 6.24 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in the town. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

### **Best Bar None**

- 6.25 Best Bar None (BBN) is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. It was piloted in Manchester in 2003 and found to improve standards in the night time economy, with premises now competing to participate.
- 6.26 The aim of BBN is to reduce alcohol related crime and disorder in a town centre by building a positive relationship between the licensed trade, police and local authorities. The authority will actively encourage licensed premises to sign up to the BBN scheme.

### **Reducing Alcohol Related Harm (RARV)**

- 6.27 In 2006 when the Reducing Alcohol Related Violence project, supported by funding from Government Office South West, was launched in Cheltenham a great deal of effort has gone into reducing alcohol related harm and disorder in the town.
- 6.28 The Codes of Practice launched in 2007 laying down common sense principles for all sectors of the night-time economy were the first such set of codes produced in the UK and were acknowledged as best practice by the Home Office.
- 6.29 The RARV Codes of Practice was revised in 2014 and republished in 2015.

### **Sexual Entertainment**

- 6.30 The authority has adopted the amended provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 ('the 2009 Act') with respect to "relevant entertainment", that is:

- a) any live performance; or
- b) any live display of nudity.

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 6.31 The adopted provisions came into effect on the 1st of December 2010 in Cheltenham.
- 6.32 Any premises that want to offer relevant entertainment on a regular basis, that is more frequent than 24 hours once a month on no more 11 occasions a

year, can no longer offer this under the provisions of the Act as a result of the abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.

- 6.33 Premises that want to offer relevant entertainment on an irregular basis can still do so under the provisions of the Act. These premises must be authorised for the performance of dance and the performance of recorded music.
- 6.34 The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the authority recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection and safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.
- 6.35 Whilst the authority cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an exempt sexual entertainment code of practice outlined in its adopted SEV policy. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The authority expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.

**Core Hours for Licensable Activities**

- 6.36 The authority will avoid arbitrary restrictions on licensing hours that undermine the principles of flexibility and consideration of each application is on its own merit.
- 6.37 The authority believes that licensable activities carried on within the core hours set out below will generally not have a harmful impact on the licensing objectives, address the concerns raised by local residents and businesses and are less likely to attract representations.
- 6.38 Furthermore, earlier closing will result in less alcohol consumption and drunkenness and would also be consistent with the ability to get crowds dispersed from the town centre.

**Table 1: Core Hours for Licensable Activities**

Type of premises	Commencement Hour No earlier than	Terminal hour No later than
Off licence	09:00	23:00
Restaurants	10:00	01:00
Theatres, cinemas and other performance venues	10:00	00:00
Pubs/Bars/Nightclubs	<u>Town centre</u> <sup>1</sup> 10:00	03:00
	<u>Local Neighbourhood Areas</u>	

<sup>1</sup> As defined in Appendix D.

	10:00	00:00
Takeaways	n/a	04:00

6.39 Where relevant representations have been made, it will take the following matters into consideration when making a decision. These are not a definitive list and other matters may be considered:

- a) Operating schedules - demonstration of compliance with management standards to support each of the licensing objectives.
- b) Proximity to residential accommodation - the likelihood of the operation to have an adverse impact on the peace and quiet of local residents.
- c) Potential noise and nuisance from people leaving and entering the premises.
- d) Ability to demonstrate that systems in place to ensure timely dispersal of customers away from residential areas.
- e) Use of external areas for carrying out the licensable activities and potential noise impact on local residents.
- f) Proposed hours of the licensing activities and general opening times for the public – The use of winding down periods to enable more efficient dispersal.
- g) Type of use – alcohol led premises such as pubs, bars and nightclubs, off licenses and hot food take away premises are more likely to be associated with crime and disorder and public nuisance than other premises such as seated restaurants, theatres, cinemas and other cultural activities.
- h) Availability of public transport to assist in the timely dispersal of customers from the vicinity and to ensure safe travel home.
- i) The potential for contamination of the street environment through increased litter and other pollution of the streets by customers.

6.40 The hours of existing licensed premises will remain unchanged unless there are good reasons, based on the licensing objectives, for restricting these hours, and then they can be changed by a licensing sub-committee following a review of the premises licence.

#### **Latest admission times**

6.41 The authority considers it undesirable that persons should seek to ‘top up’ their alcohol intake by seeking out those premises that are admitting customers at the latest times because persons moving between venues late at night can lead to crime, disorder and public nuisance.

- 6.42 Establishing last entry times can reduce the tendency of customers to concentrate at those premises which remain open the latest, without restricting the hours of trading. This will encourage dispersal and reduce the pressure on late-night refreshment outlets and transport facilities which will assist with objectives to prevent public nuisance and crime and disorder in certain circumstances.
- 6.43 It is therefore this council's policy that the latest admission time, for licences premises open past midnight, to be no less than:
- a) one hour for nightclubs & late night bars; and
  - b) half an hour for pubs and other licensed premises
- before the terminal hour for licensable activities.

### **Takeaway food premises**

- 6.44 It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there.
- 6.45 As such the authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises.
- 6.46 Applicants for licences are recommended to have written policies for dealing with disorder and nuisance and should give consideration to the issues regarding takeaways.
- 6.47 The authority will normally require licensed premises principally used for selling hot food for consumption off the premises to have suitable CCTV installed and may impose a requirement to employ SIA doormen where such a requirement is deemed necessary.
- 6.48 Operators (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere than on the premises are expected to consider the potential for litter near their premises and take steps to actively reduce the amount of litter generated from their premises.
- 6.49 Where the authority considers it appropriate, it may impose conditions on a premises licence to require the operators of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

### **Pavement Cafes and External Areas**

- 6.50 The authority wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Cheltenham because of the added life and vitality this brings to the town.

- 6.51 Whilst the provision of tables and chairs outside a premises can enhance the attractiveness of a venue, regard should be had to the need to ensure that the use of such areas will not cause nuisance to local residents and other premises in the vicinity. To this end, the authority will normally restrict the use of external areas to 23:00.
- 6.52 Premises that make use of external areas are expected to manage those areas in such a way that its use does not impede access to the premises, obstruct the highway and does not cause disturbance.
- 6.53 In particular the authority will expect premises to provide ash trays or wall mounted cigarette bins for patrons, be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas.

## Promoting safe drinking limits

### Irresponsible Drinks Promotions and Drunkenness on Premises

- 6.54 Low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. Through this policy the authority would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the authority will consider imposing controls on drinks promotions to deal with localised problems.
- 6.55 However, the authority would prefer an approach whereby it, along with the licensed trade and other partners, are able to promote responsible retailing of alcohol instead of having to dealing with the effects of irresponsible drinks promotions and drunkenness.

### Code of Good Practice for Drinks Promotions

- 6.56 It is a known fact that the price of alcohol does have an effect on the amount people consume. It is also the case that people are more attracted to premises that offer low cost alcohol and low cost alcohol is likely to cause people to consume more alcohol than they would normally have done. Both of these situations can lead to crime, disorder and public nuisance issues.
- 6.57 The authority does not wish to unnecessarily impose operational restrictions and freedoms on licensed premises. It would therefore like to encourage a voluntary code of good practice in relation to drinks promotions and to encourage licence holders and others working at the premises to familiarise themselves with the mandatory conditions relating to drinks promotions.
- 6.58 To this end, the authority will encourage all licence holders to apply the following principles in relation to any drinks promotions:

Principle
-----------

Align pricing with Alcohol by Volume (ABV).
---

Start the sale of alcohol later in the day and not align it purely with opening hours.
Refrain from all inclusive offers.
Promotional information should clearly display: <ul style="list-style-type: none"> <li>- Factual information on the alcoholic strength of a drink(s);</li> <li>- That no-one under the age of 18 years may take part in the promotion;</li> <li>- display Drink Aware logo/information.</li> </ul>
Promotions should not: <ul style="list-style-type: none"> <li>- focus on the strength of any alcohol product as the principle theme;</li> <li>- condone or encourage illegal, excessive or irresponsible drinking (such as binge-drinking, drunkenness or drink-driving);</li> <li>- refer in any favourable manner to the effects of intoxication or consumption;</li> <li>- suggest that alcohol consumption enhances sexual attractiveness or include promotion material that is linked to sexual imagery implying sexual success or prowess.</li> </ul>
Restrict multi buy promotions.
No advertisements for alcohol in the shop window.
Alcohol should not be given away for free as part of a promotion or as an incentive.
Actively promote designated driver schemes where a driver is offered discounted or free non-alcoholic drinks.
Make food and hot drinks available in late venues.

## Shops Selling Alcohol (Off Licences)

- 6.59 There has been a trend towards more alcohol being purchased from shops and consumed at home and less being purchased and consumed in traditional pubs, restaurants and night clubs than used to be the case in the past. The growing practice of “pre-loading” has the potential to create specific problems and detriment to the licensing objectives *including the increased potential for underage and proxy sales which is detrimental to the protection of children from harm.*



- 6.60 Furthermore, the availability of alcohol for consumption off the premises has the potential to cause other problems that include ease of access to alcohol by children, ease of thefts, encouragement of street drinking, and increase of crime and disorder and public nuisance.
- 6.61 There are a number of ways in which licence holders and the authority can address these concerns.

### **Hours of Operation**

- 6.62 See Table 1: Core Hours for Licensable Activities on page 27.

### **Layout and Operation of Premises**

- 6.63 In most cases a licence holder will be able to address the potential problems and detriment to the licensing objectives, through the layout and the operation of the premises.
- 6.64 The authority will encourage all licence holders licensed for off sales to:
- a) Store high strength alcohol behind the shop counter;
  - b) Not store or display any alcohol at the entrance/exit points of the premises;
  - c) Not advertise alcohol in a shop window;
  - d) Not sell single cans of beer or bottles of beer under 1 litre;
  - e) Not sell beer or cider over 5.5% ABV;
  - f) Not store or display any alcohol at or near check-outs; and
  - g) Refuse to sell alcohol to persons known to be persistent offenders (where the offence(s) relates/associated with alcohol) or street drinkers.

### **Licence Conditions & Reviews**

- 6.65 Where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the authority will consider imposing appropriate restrictions on a licence. This may include, although not limited to, restricting the hours for licensable activities, restricting the sale of alcoholic beverages over a specified limit of alcohol by volume and/or of specified quantities.

### **Late night refreshment exemptions based on designated locations, premises types and times**

- 6.66 Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 6.67 This authority has not resolved to exempt and premises from the requirement to have a licence to provide late night refreshment.

## 7. Film Classifications

- 7.1 The authority has a statutory obligation to classify films for public screening. The BBFC is the nominated body that classifies films to be exhibited in cinemas on behalf of Licensing Authorities. Films that have not been classified by the BBFC and are to be screened in the borough must be submitted to the authority for classification.
- 7.2 All requests to classify a film must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format. Requests shall be assessed by officers of the authority against the BBFC guidelines and the licensing objectives. Officers shall view the entire film and make a recommendation with regards to the appropriate classification. Officers do however reserve the right to refer the classification of a film to a licensing sub-committee in instances deemed necessary.
- 7.3 All requests must be submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the authority being unable to classify the film.

## 8. Events on Council Land

- 8.1 The authority wants to encourage cultural and community events in the borough but at the same time also protect the quality of life for residents.
- 8.2 In accordance with the provisions of the Act, the authority has made applications and been granted premises licences for areas of public land.
- 8.3 Persons wishing to carry on licensable activities on licensed public land will not be required to obtain a premises licence or give a temporary event notice themselves but must seek permission from the authority to use the premises licence to put on their event unless the nature of the event is such that it does not fall within the terms of the licence.
- 8.4 The authority has an adopted process for considering requests for events to be held on public land. In the first instance, persons wishing to use council land for event must complete and submit an [application form](#).
- 8.5 In addition, a Safety Advisory Group (SAG) may be established in order to consider any safety issues related to an event. The event organiser must produce an event plan and must incorporate an operating schedule, risk assessments and address any safety issues before the authority allows the use of its licence.

## 9. Enforcement

- 9.1 In terms of regulation, our aim is to target those premises which are causing problems within our communities whilst supporting well managed premises and community activities, which provide worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises associated with disorder, threaten public safety, generate public nuisance, or threaten the well being of our children will be targeted for enforcement action.
- 9.2 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.
- 9.3 The authority will monitor compliance with the licensing objectives through a programme of inspection visits. The proactive inspection visits are risk based so that those premises that are at a higher risk of adversely affecting the licensing objectives are more frequently inspected.
- 9.4 The authority will also establish enforcement protocols with the police and other enforcement agencies to ensure efficient and targeted joint enforcement is undertaken on a regular basis.
- 9.5 This does not prevent action being taken by any individual authority at any time should offences become apparent.
- 9.6 The authority will take in to account its adopted corporate enforcement policy when deciding what appropriate action to take.

### Reviews

- 9.7 At any stage, following the grant of a premises licence, a responsible authority, or other person, may ask the authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 9.8 In every case, the application for review must relate to particular premises for which a licence is in existence and must be relevant to the promotion of the licensing objectives.
- 9.9 The necessary forms and documents is available from the authority's website at <http://www.cheltenham.gov.uk/licensing> or from the licensing section during normal office hours.

## **Appendix A –Consultees**

This document has been developed by the authority in consultation with representatives of the following key stakeholder groups and organisations:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each local authority's Director of Public Health in England (DPH);
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

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## Appendix B – Responsible Authorities

### **Gloucestershire Constabulary**

Licensing Unit,  
No 1 Waterwells, Waterwells Drive,  
Quedgeley  
Gloucester  
GL2 2AN

Switchboard: 101

Email: [licensing@gloucestershire.police.uk](mailto:licensing@gloucestershire.police.uk)

### **Gloucestershire Fire and Rescue Service**

Service Delivery Support  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Tel: 01452 753333

Email: [fire.safety@glosfire.gov.uk](mailto:fire.safety@glosfire.gov.uk)

### **Pollution Prevention**

Environmental Protection  
Public Protection  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Tel: 01242 264135

Email: [EnvHealth@cheltenham.gov.uk](mailto:EnvHealth@cheltenham.gov.uk)

### **Health and Safety Enforcement**

**Where the local authority is the enforcing authority**

Cheltenham Borough Council  
Health and Safety – Environmental Health  
Public Protection  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Tel: 01242 264135

Email: [EnvHealth@cheltenham.gov.uk](mailto:EnvHealth@cheltenham.gov.uk)

**Where the HSE is the enforcing authority**

Health and Safety Executive  
4th Floor, The Pithay  
All Saints Street  
BRISTOL  
BS1 1ND

Telephone: 0117 988 6000

Fax: 0117 926 2998

Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is [paula.Johnson@hse.gsi.gov.uk](mailto:paula.Johnson@hse.gsi.gov.uk)

(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is [nigel.chambers@hse.gsi.gov.uk](mailto:nigel.chambers@hse.gsi.gov.uk)

**Local Planning Authority**

Planning Enforcement  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel 01242 264138

Email: [planning@cheltenham.gov.uk](mailto:planning@cheltenham.gov.uk)

**Child Protection**

Gloucestershire Safeguarding Children Board  
Block 4, 1st Floor, Room 133B,  
Shire Hall,  
Westgate Street,  
Gloucester,  
GL1 2TH

Tel: 01452 583629

Email: [gscb@gloucestershire.gov.uk](mailto:gscb@gloucestershire.gov.uk)

**Trading Standards**

Gloucestershire County Council, Trading Standards,  
Hillfield House  
Denmark Road  
Gloucester  
GL1 3LD

Tel: 01452 426201

Email: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)

**Responsible Authority for Health**

Public Health Department  
Block 4, 2nd Floor  
Gloucestershire County Council  
Shire Hall, Westgate Street, Gloucester GL1 2TG

Tel: 01452 328699

Email: [publichealth@gloucestershire.gov.uk](mailto:publichealth@gloucestershire.gov.uk)

**Cheltenham Borough Council Licensing**

Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Tel: 01242 264135

Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

**Home Office Immigration Enforcement**

Email: [alcohol@homeoffice.gov.uk](mailto:alcohol@homeoffice.gov.uk)

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## Appendix C – Pool of Model Conditions

### Introduction

The conditions shall not be regarded as “standard conditions” which are to be automatically imposed on premises licences and certificates in all cases. The following are designed to provide a range of possible conditions which may need to be attached to premises licences or club premises certificates, depending upon differing situations.

All conditions attached to a premises licence and club premises certificate must be appropriate and proportionate to the application received.

The wording of the conditions may need to be modified to suit a particular premise and/or situation.

This is not an exhaustive or exclusive list of conditions.

Additional conditions may be drafted and attached to such licences and certificates to meet individual circumstances, both by the applicant in question, any responsible authority, or the Licensing Authority as deemed appropriate.

The majority of conditions refer to the ‘premises licence holder’ however, in some circumstances, it may be more appropriate for the designated premises supervisor to be responsible for complying with the condition. In these circumstances, the conditions can be amended to read ‘the designated premises supervisor or a competent person nominated by the designated premises supervisor’.

**C&D** – The Prevention of Crime & Disorder | **PN** – The Prevention of Public Nuisance | **CP** – Protection of Children from Harm | **PS** – Public Safety

Reference	Model Condition	Primary Licensing Objective*
<b>Sale of Alcohol</b>		
	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.	C&D CP
	No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.	C&D CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	No more than x% of the sales area to be used at any one time for the sale, exposure for sale, or display of	C&D CP

	alcohol.	
	Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a take-away meal.	C&D CP
	Alcohol shall only be sold to a person sitting down eating a meal and for consumption with that meal.	C&D
	Alcohol may only be sold to persons having a table meal or those waiting to be seated prior to having a table meal.	C&D
	Alcohol shall be sold to customers by waiter/waitress service only.	C&D
	There shall be no sales of alcohol for consumption off the premises.	C&D CP
	Alcohol consumed outside the premises shall only be consumed by patrons seated at tables.	C&D PN
	Any alcohol supplied for consumption off the premises must be in a sealed container.	C&D
	Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises during the periods when alcohol is authorised for sale.	C&D
<b>Management of the Premises</b>		
	A 'Winding-down and Dispersal' policy shall be adopted that includes measures to achieve a gradual and orderly dispersal of customers at the end of the trading session. These measures shall commence at least 15 minutes before the bar closes, and shall include slowing down the tempo of music, a significant reduction in the volume of music and announcements requesting customers to leave the premises quietly and respect the peace and quiet of the local residents.	C&D PN
	A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.	C&D PN
	The Designated Premises Supervisor or premises licence holder shall bring the contents of the licence and licence conditions to the attention of all door	C&D PN CP

	supervisors and other staff employed at the premises.	PS
<b>CCTV</b>		
	A CCTV system consisting of a minimum of <b>x</b> cameras shall be installed at the premises. The CCTV system shall be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for a minimum of 14 days and be provided on DVD to officers of the authority, Trading Standards or Police on request.	C&D
	A staff member from the premises, who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open to the public. This staff member must be able to show the Police or Licensing Officer recent data or footage with the absolute minimum of delay when requested to do so.	C&D
	No alcohol shall be sold if the CCTV equipment is inoperative for any reason.	C&D CP
<b>Radios</b>		
	<p>The premises licence holder shall join the Night Safe radio scheme or any similar scheme operating in the town and ensure that:</p> <ul style="list-style-type: none"> <li>• The communication equipment is kept in working order at all times. If the communication equipment breaks then the Police shall be notified and the equipment shall be repaired within a reasonable time period;</li> <li>• The communication equipment shall be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;</li> <li>• Any police instructions/directions are complied with whenever given; and</li> <li>• All instances of crime and disorder are reported via the communication equipment by the designated premises supervisor or a responsible member of staff to an agreed police contact point.</li> </ul>	C&D

<b>Best Practice Scheme</b>		
	The Designated Premises Supervisor shall maintain an active membership of the Night Safe (or successor 'pubwatch') including operation of the Nightsafe radio link.	C&D
<b>Door Supervisors</b>		
	A minimum of x SIA licensed door supervisor shall be on duty at the premises at all times whilst it is open to the public [or after xx.xx / until the last admission time for the public].	C&D
	If door supervisors are required to undertake body searches then at least one female supervisor shall be available to undertake the body searches of female customers.	C&D
	A written search policy that aims to prevent customers or staff bringing illegal drugs, weapons or other illegal items onto the premises at any time shall be in place and operate at the premises.	C&D
	Where door supervisors are required the premises licence holder [or Designated Premises Supervisor] shall keep records showing the names of the supervisor, their SIA badge number & expiry date, and the date/time that they were employed. A copy should be available immediately upon request to an authorised officer of Gloucestershire Constabulary or the authority.	C&D CP
	All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.	C&D
	For a period of 30 minutes following the closure of the Bar, or until all customers have dispersed from the immediate vicinity if longer, there shall be a minimum of x door supervisors on the street outside the premises wearing high-visibility clothing to ensure the safe, orderly and quiet dispersal of customers in the immediate vicinity.	C&D PN
<b>Hours</b>		
	Consumption of alcohol shall cease x minutes after the	C&D

	time authorised for its <b>sale or supply/provision of licensable activities</b> .	PN
<b>Entry to Premises</b>		
	No public access to the premises shall occur through the <b>[specify doors/area]</b> . This condition shall not restrict the use of the doors in the event of an emergency.	C&D CP PS
	There shall be no entry or re-entry, other than staff members, to the premises after <b>xx.xx</b> save for customers using the agreed smoking area at the premises.	C&D PN
	On occasions where licensable activities are carried on past <b>xx:xx</b> hours, admission of customers will be restricted to <b>[enter restriction e.g. a particular entrance, a particular area of the licensed premises etc]</b> .	C&D
	In relation to the specified function room there shall be no admission after <b>x</b> other than to:  (1) residents of the hotel and their bona fide guests; or (2) persons attending the pre-booked function	C&D
	All functions in the <i>specified function room</i> shall be pre-booked or ticketed events.	C&D PN
	No events solely for those under 18 will be permitted on the premises.	C&D CP
	The rules of admission to the premises shall be clearly and prominently displayed at each entrance to the Premises.	C&D CP
<b>Alcoholic Containers</b>		
	No glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff serving away from the bar.	C&D PS
	No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.	C&D
	<b>The premises licence holder/designated premises supervisor</b> shall ensure that no customers shall take glasses or open bottles from the premises other than	C&D PN

	into the outside area shown and edged [red] on the plan forming part of the premises licence.	
	The premises licence holder shall ensure that only plastic or toughened glass containers will be used for the supply of beverages.	C&D
	There shall be no sale of alcohol in unsealed containers for consumption off the premises.	C&D
<b>Notices/Signage</b>		
	The premises licence holder shall ensure that a sign, indicating the hours during which licensable activities are permitted to take place, is displayed in, on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	C&D PN
	The premises licence holder shall ensure that a sign, detailing any restrictions on the admission of children, is displayed on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	CP
<b>Drugs</b>		
	The Designated Premises Supervisor shall complete/attend a recognised 'drug awareness' training course [within **** weeks/by **** date, or the DPS shall have completed/attended such training].	C&D
	Staff shall be provided with 'drug awareness training', and be briefed on the drugs policy applicable to the premises.	C&D
	Any person found with illegal drugs must be reported to a Police officer immediately.	C&D
	Whilst licensable activities are taking place, the toilets at the Premises must be checked at least hourly for illegal drug use or supply. A written log of all checks must be kept at the Premises for at 31 days and made available for immediate inspection on the request of an authorised officer of Gloucestershire Constabulary or the Licensing Authority.	C&D

<b>Promotions</b>		
	There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold, or usually sold, on the premises.	C&D
	There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.	C&D
	28 days' notice shall be given to Gloucestershire Constabulary and the licensing authority of any events held which are organised by an outside promoter, including full details of the nature of the event and of the promoter.	C&D
<b>Records</b>		
	<p>An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the authority. The log will record the following:</p> <ul style="list-style-type: none"> <li>• all crimes reported to the venue</li> <li>• all ejections of customers</li> <li>• any incidents of disorder (disturbance caused either by one person or a group of people) [There is no requirement to record the above incidents (a), (b) or (c) where they do not relate to a licensable activity]</li> <li>• seizures of drugs or offensive weapons</li> <li>• any faults in the CCTV system or searching equipment or scanning equipment</li> <li>• any refusal of the sale of alcohol during the hours the premises is licensed to sell it</li> </ul>	C&D
<b>Premises Layout</b>		
	<p>The following alcoholic beverages shall be placed behind a staffed counter:</p> <ul style="list-style-type: none"> <li>• mixed alcoholic beverages under 10% a.b.v.</li> <li>• beers or ciders over 5.5% a.b.v.; and</li> <li>• all spirits in bottles less than 70cl.</li> </ul>	C&D CP
	At least <b>x</b> members of staff shall be on duty on the shop floor between **** hours until closing time.	C&D

	The physical location of alcohol displays shall be in an area within sight of staff as identified on the plan of the premises annexed to the licence.	C&D CP
	The XX area shall be designated as a "chill-out" area whilst music and dancing are permitted on the premises which shall include adequate ventilation or fresh air; ready access to free drinking water; suitable seating accommodation; and access to First Aid facilities	C&D
	Seating for no less than [specify number] persons shall be provided in the premises at all times the premises are [specify "open" or "are providing any licensable activity"].	C&D
<b>Use of Outdoor Area</b>		
	The designated premises supervisor shall ensure that tables are cleared of all bottles and glasses on a regular basis during trading hours to avoid an accumulation of glassware.	C&D PN
	Customers will not be permitted to drink outside the premises save for in any seated area authorised under a pavement licence.	C&D PN
<b>Disabled People</b>		
	The premises licence holder shall ensure that, when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency and that disabled people on the premises are made aware of those arrangements.	PS
<b>First Aid</b>		
	The premises licence holder shall ensure that an adequate and appropriate supply of first aid equipment and materials is available on the premises and at least one suitably trained first aider shall be on duty when the public are present and if more than one suitably trained first aider that their respective duties are clearly defined.	PS
	The Licensee shall ensure that at all times when the public is present there is at least one competent person able to administer First Aid, that an adequate and	PS



	appropriate supply of First Aid equipment and materials is available on the Premises and that adequate records are maintained in relation to the supply of any First Aid treatment.	
<b>Lighting</b>		
	The premises licence holder shall ensure that, in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully operational when the public, members or guests are present.	C&D PS
<b>Special Effects</b>		
	Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff.	PS
	The following special effects will only be used on 10 days prior notice being given to the Licensing Authority and Environmental Health where consent has not been previously been given: <ul style="list-style-type: none"> <li>• dry ice machines and cryogenic fog</li> <li>• smoke machines and fog generators</li> <li>• pyrotechnics including fireworks</li> <li>• real flame</li> <li>• fire arms</li> <li>• motor vehicles</li> <li>• strobe lighting</li> <li>• lasers</li> <li>• explosives and highly flammable substances</li> </ul>	PS
	These special effects must only be used on the provision of a suitable and sufficient risk assessment and prior notification to the Licensing Authority and Environmental Health.	PS
	All escape routes and exits shall be kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.	PS
	All exit doors shall be regularly checked to ensure that they function satisfactorily and a record of the checks shall be kept on the premises.	PS

<b>Noise Nuisance (regulated entertainment)</b>		
	The lobby doors at the premises shall be kept closed except for access and egress during the provision of regulated entertainment. Door staff, where employed, shall ensure that the doors are maintained closed as far as possible when regulated entertainment is taking place.	PN
	A noise limiting device shall be installed, fitted and maintained in such a manner so as to control all sources of amplified music at the premises during the provision of regulated entertainment. The noise limiting device shall be set at a limit determined by the Local Authority's Authorised Officer, such level being confirmed in writing to the premises licence holder.	PN
	Whenever any regulated entertainment occurs past 22:00 indoors all windows and doors shall be kept shut during these activities.	PN
	Loudspeakers shall not be located in the entrance lobby, [or specify another location if appropriate] or outside the premises.	PN
	Live music shall be provided by no more than two (2) performers on any day.	PN
	After 23:00 hours all windows shall be closed and remain closed.	C&D PN
	Unless otherwise specified on this licence no regulated entertainment shall take place at the premises with the exception of pre-booked private events limited to the provision of music and dancing for pre-invited guests.	C&D PN
	Where any regulated entertainment occurs at the premises, the Designated Premises Supervisor, or a person nominated by them, will ensure that noise from such activities is effectively inaudible inside the nearest noise sensitive premises.	PN
<b>Noise Nuisance (people)</b>		
	Prominent, clear notices shall be displayed at [all exits / in the beer garden] requesting customers to respect the needs of local residents and leave the premises and the area quietly.	PN

	The premises licence holder shall monitor the activity of persons leaving the premises [after xx:xx/are closed to the public] and remind them of their public responsibilities where necessary.	PN
	Customers permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them.	C&D PN
	Deliveries to the premises shall only be made between **:** hours and **:** hours on Mondays to Saturdays only.	PN
	The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.	PN
<b>Lighting</b>		
	Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting associated with regulated entertainment shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting provided externally to promote advertising of the premises or activities associated with the premises shall be of an intensity such as not to cause nuisance to neighbouring or adjoining properties.	PN
<b>Open Spaces</b>		
	The area within which alcohol is served or consumed shall be clearly and effectively delineated using barriers, ropes, or similar so that the extent of the Designated Place where the licensable activity is temporarily permitted shall be clearly defined and notices shall be conspicuously placed in the area.	C&D PN
	Music noise levels from outdoor regulated entertainment must not exceed those defined in the Code of Practice on Environmental Noise Control at Concerts' (The Noise Council 1995 ISBN 0 900103 51	PN

	Use of the outdoor area will cease at 23:00 everyday.	PN
<b>Other Nuisance</b>		
	A public refuse bin shall be installed outside the premises subject to any necessary planning permission or listed building permission.	PN
	The premises licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.	C&D PN
<b>Litter</b>		
	At the termination of business on each day the outside area immediately to the front of and adjacent to the premises shall be cleared of debris and litter.	PN
<b>Other</b>		
	In cases of an event involving a significant number of unaccompanied children, the premises licence holder shall have a child protection policy in place to carry out suitable checks on staff before they take up employment.	CP
	A Challenge [21/25/or any other suitable age] policy shall be operated at the premises at all times. All staff shall require identification of all customers who appear to be less than [21/25/ or any other suitable age] years old and wish to purchase alcohol. Acceptable proof of age will be a PASS approved proof of age card, UK passport or a UK photographic driving licence.	CP
	Challenge [21/25/ or any other suitable age] materials shall be displayed at the premises, including at the point of sale of alcohol, to inform customers of the operation of the scheme.	CP
	A log shall be kept at the premises and record all refused sales of alcohol for reasons that the person(s) is, or appears to be, under x years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be made available on request by the Police or an	CP

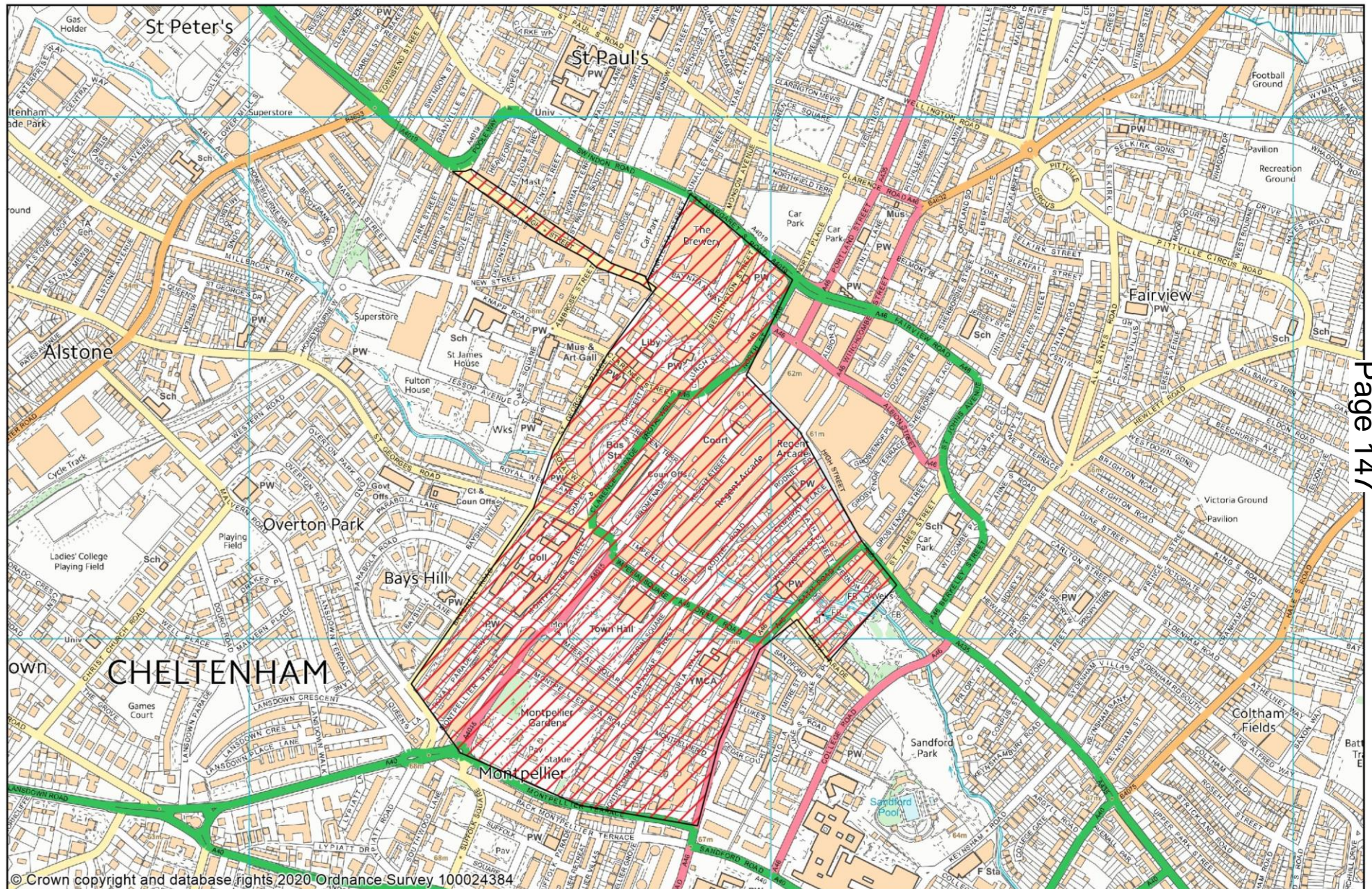
	authorised officer of the authority.	
	Children under the age of <b>x</b> years shall not be allowed on the premises after <b>**:**</b> hours unless accompanied by an adult.	CP
	Children under the age of <b>x</b> years shall not be allowed on the premises.	CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.	CP
	The licence holder or the licence holders, servants, or agents, shall ensure that no flyposting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place at the premises.	PN C&D
<b>Queuing</b>		
	Any designated queuing area shall be enclosed within appropriate barriers to ensure that the highway is kept clear.	C&D
<b>Dispersal</b>		
	A minimum 30 minute 'drinking-up' time shall be provided to allow appropriate dispersal, use of lavatories etc.	C&D PN
	A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.	C&D CP
	Freephones or payphones shall be made available to all customers and have displayed contact telephone numbers for selection of hackney carriages and private hire services.	PN
<b>Boxing &amp; Wrestling</b>		
	At least 28 days' notice of any event involving boxing or wrestling entertainment events shall be provided to the	C&D

	licensing authority and the health and safety enforcing authority.	
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# Appendix D – Designated Area of Concern





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# 14. Statements of licensing policy

## Introduction

### The Licensing Act 2003

14.1 This chapter provides guidance on the development and preparation of local statements of licensing policy for publication by licensing authorities, the general principles that it is recommended should underpin them, and core content to which licensing authorities are free to add.

## General

14.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.

14.3 Where revisions to the section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its own licensing policy statement are appropriate.

## Consultation on policies

14.4 Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each local authority's Director of Public Health in England (DPH)<sup>14</sup> or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

14.5 The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the

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<sup>14</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

- 14.6 Subject to the statutory requirements, it is for each licensing authority to determine the extent of the consultation it should undertake, and whether any particular person or body is representative of the groups described in the 2003 Act. While it is clearly good practice to consult widely, this may not always be necessary or appropriate (for example, where a licensing authority has recently carried out a comprehensive consultation in relation to a revision to its policy made within five years of a full revision to it). As such, it may decide on a simple consultation with those persons listed.
- 14.7 However, licensing authorities should consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy (for example, where an earlier consultation was limited to a particular part of the policy, such as a proposal to introduce a cumulative impact policy).
- 14.8 Fee levels are intended to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they will have to absorb those costs themselves.

## Fundamental principles

- 14.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.
- 14.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
- 14.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- 14.12 Statements of policies should make clear that:
- licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and
  - conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
- 14.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time

## Licence conditions

- 14.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.
- 14.15 Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. Chapter 10 provides further detail on this issue.

## Enforcement

- 14.16 The Government recommends that licensing authorities should establish and set out joint enforcement protocols with the local police and the other authorities and describe them in their statement of policy. This will clarify the division of responsibilities for licence holders and applicants, and assists enforcement and other authorities to deploy resources more efficiently.
- 14.17 In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the Regulators' Code) should prevail and, for example, inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises. Licensing authorities should also remind operators of licensed premises that it is incumbent on them to provide appropriate training for their staff to ensure the promotion the licensing objectives.

## Entertainment provision

- 14.18 Statements of licensing policy should set out the extent to which the licensing authority intends to facilitate a broad range of entertainment provision for enjoyment by a wide cross-section of the public. Statements of licensing policy should address what balance is to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. Licensing authorities should be conscious that licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors.

## The need for licensed premises

- 14.19 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of

## **The cumulative impact of a concentration of licensed premises**

### **What is cumulative impact?**

- 14.20 The concept of “Cumulative impact” has been described within this guidance and used by licensing authorities within their statements of licensing policy since the commencement of the 2003 Act. ‘Cumulative impact assessments’ were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.
- 14.21 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 14.22 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 14.23 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

### **Cumulative impact assessments**

- 14.24 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 14.25 Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a licensing authority must be summarised in its statement of licensing policy. Under section 5(6D) a

licensing authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.

- 14.26 The CIA must include a statement saying that the licensing authority considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its opinion.
- 14.27 CIAs may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night refreshment providers which are not licensed to sell alcohol. A CIA may relate to all premises licences and club premises certificates in the area described in the assessment or parts thereof, or only to premises of a particular kind described in the assessment. For example, it may be appropriate for the licensing authority to only include off-licences or nightclubs within the scope of its assessment. The licensing authority must make clear, when publishing its CIA, which premises types it applies to. CIAs do not apply to TENs; however it is open to the police and environmental health authority (as relevant persons) to refer to evidence published within a CIA when objecting to a TEN.
- 14.28 While the evidence underpinning the publication of a CIA should generally be suitable as the basis for a decision to refuse an application or impose conditions, it does not change the fundamental way that decisions are made under the 2003 Act. Each decision in an area subject to a CIA therefore still needs to be made on a case-by-case basis and with a view to what is appropriate for the promotion of the licensing objectives. Importantly, the publication of a CIA would not remove a licensing authority's discretion to grant applications for new licences or applications to vary existing licences, where the authority considers this to be appropriate in the light of the individual circumstances of the case.

### **Evidence of cumulative impact**

- 14.29 As noted above, there must be an evidential basis for the decision to publish a CIA. Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
  - statistics on local anti-social behaviour offences;
  - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
  - environmental health complaints, particularly in relation to litter and noise;
  - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
  - residents' questionnaires;
  - evidence from local and parish councillors; and
  - evidence obtained through local consultation.



- 14.30 The licensing authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:
- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
  - changes in terminal hours of premises;
  - premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.
- 14.31 Where existing information is insufficient or not readily available, but the licensing authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity and anti-social behaviour, examples of public nuisance, specific issues such as underage drinking and the key times and locations at which these problems are occurring.
- 14.32 In order to identify the areas in which problems are occurring, information about specific incidents can be mapped and, where possible, a time analysis undertaken to identify the key areas and times at which there are specific issues.
- 14.33 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate to publish a CIA. The CIA should also be considered alongside local planning policy and other factors which may assist in mitigating the cumulative impact of licensed premises, as set out in paragraph 14.46.

### **Steps to publishing a cumulative impact assessment**

- 14.34 The steps to be followed in considering whether to publish a CIA are summarised below.
- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
  - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
  - If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
  - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
  - Consult those specified in section 5(3) of the 2003 Act. As with consultations in respect of the licensing policy statement as a whole, it is for each licensing authority to determine the extent of the consultation it should undertake in respect of a CIA (subject to the statutory requirements).
  - For the purposes of the consultation provide the persons specified in section 5(3) with the following information:
    - the reasons why it is considering publishing a CIA;

- a general indication of the part or parts of its area which it is considering describing in the assessment;
  - whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.
- Subject to the outcome of the consultation, include and publish details of the CIA, including the evidence in support of the assessment and the particular kinds of premises the assessment relates to. Licensing authorities are not restricted to using general terms such as on-trade, off-trade and late night refreshment providers, and can apply their own descriptions such as vertical-drinking bars and night clubs if appropriate.
  - Summarise the licensing authority's opinion in light of the evidence of cumulative impact (or any revision to an existing opinion) in the licensing policy statement and explain within the policy statement how the authority has had regard to any CIAs it has published under section 5A. The summary within the licensing policy statement should include, but is not limited to: the nature of the problems identified and the evidence for such problems; the geographical extent of the area covered by the assessment; the types of premises described in the assessment; and the types of applications for which it would likely be inconsistent with the licensing authority's duty to promote the licensing objectives to grant.

## Reviewing the CIA

- 14.35 After publishing a CIA the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3). If having consulted with the statutory list of persons the licensing authority decides that it is no longer of the opinion set out in the CIA, it must publish a statement to that effect. The statement must make clear that any reference to the CIA in its licensing policy statement no longer applies. The licensing authority should remove any reference to the CIA within its licensing policy statement at the earliest opportunity.
- 14.36 If having consulted the licensing authority decides that it remains of the opinion set out in the assessment, it must revise the CIA to include a statement to that effect and set out the evidence as to why it remains of that opinion. It will be important for any evidence included in the revised CIA to be robust and relevant to the current problems described. This is likely to involve the collation of fresh or updated evidence of the kind described in the above section on evidence of cumulative impact. The licensing authority must also at this stage publish any other material change to the assessment. For example if the types of premises or area described in the assessment have changed due to a shift in the nature of the problems being experienced or where there is evidence of the emergence of a new type of problem.
- 14.37 In each case the three year period for reviewing a CIA begins with the original date of the publication of the CIA or the date that a CIA was last revised. Where a licensing policy statement as a whole is due for review, under the five year review period under section 5(4), and this occurs before the end of the three year CIA review period, licensing authorities may wish to use this as an opportunity to carry out a review of the evidence in support of the CIA. However, licensing authorities are free to carry out consultations and reviews of their CIAs (and/or licensing policy statements) at more regular intervals if they consider this to be appropriate.

- 14.38 As Cumulative Impact Policies were introduced by the 2003 Act, there are no transitional provisions that apply to CIPs that were in place before 6 April 2018. However, any existing CIPs should be reviewed at the earliest practical opportunity to ensure they comply with the legislation. It is recommended that the review should take place within three years of the commencement of the legislation on CIAs or when the licensing policy statement is next due for review, whichever is sooner. This will ensure that any CIPs in place before the commencement of the provisions on CIAs adhere to the principles in the legislation (in particular concerning relevant evidence and consultation).

### **Effect of cumulative impact assessments**

- 14.39 When publishing a CIA a licensing authority is required to set out evidence of problems that are being caused or exacerbated by the cumulative impact of licensed premises in the area described. The evidence is used to justify the statement in the CIA that it is likely that granting further premises licences and/or club premises certificates in that area (limited to a kind described in the assessment), would be inconsistent with the authority's duty to promote the licensing objectives.
- 14.40 In publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA a licensing authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the licensing authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.
- 14.41 The CIA must also stress that it does not relieve responsible authorities (or any other persons) of the need to make relevant representations where they consider it appropriate to do so for the promotion of the licensing objectives. Anyone making a representation may base it on the evidence published in the CIA, or the fact that a CIA has been published. It remains incumbent on all responsible authorities and other persons to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the 2003 Act, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 14.42 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person



making the representation to provide relevant evidence of cumulative impact.

- 14.43 As noted above, CIAs may apply to the impact of a concentration of any licensed premises, including those licensed for the sale of alcohol on or off the premises, and premises licensed to provide late night refreshment. When establishing its evidence base for publishing a CIA, licensing authorities should be considering the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the CIA.

## Limitations on special policies relating to cumulative impact

- 14.44 A CIA should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its CIA in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 14.45 CIAs should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the licensing authority has concerns about the effect of activities at existing premises between midnight and 6am on the promotion of the licensing objectives in a specific area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so (see chapter 17). The “cumulative impact” on the promotion of the licensing objectives of a concentration of licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered.
- 14.46 CIAs must not impose quotas based on either the number of premises or the capacity of those premises. This is because quotas that indirectly have the effect of predetermining the outcome of any application would have no regard to the individual characteristics of the premises concerned.

## Other mechanisms for controlling cumulative impact

- 14.47 Once away from the licensed premises, a minority of consumers will behave badly. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:
- planning control;

- positive measures to create a safe and great town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Best Bar None, Pubwatch or BIDs;
- Community Protection Notices;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- Raising a contribution to policing the late night economy through the Late Night Levy.
- Early Morning Alcohol Restriction Orders (see Chapter 17).

14.48 As part of its licensing policy statement, the licensing authority may also wish to consider the use of alternative approaches such as fixed closing times, staggered closing times and zoning. Such policy restrictions would need to be evidence-based and would be subject to the merits of each case in accordance with what is appropriate for the promotion of the licensing objectives. The licensing authority would be expected to justify the use of such measures as an appropriate means of managing problems in its area.

## Public Spaces Protection Order

14.49 The Designated Public Place Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014<sup>15</sup>. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Before making a PSPO, a council must consult the local police. DPPOs will continue to be valid for a period of three years following commencement of the PSPO in October 2014. Once that three year period expires, they will be treated as a PSPO and enforceable as such. Where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licenses that place for alcohol sales, the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the PSPO at all other times<sup>16</sup>. This allows local authorities to promote community events while still using a PSPO to tackle the problems of anti-social drinking.

14.50 It should be noted that when one part of a local authority seeks a premises licence of this kind from the licensing authority, the licensing committee and its officers must consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they must be considered fairly by the committee. Anyone making a representation that is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority

<sup>15</sup> For full guidance on the PSPO please see the statutory guidance on the 2014 Act:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)

<sup>16</sup> Licensed premises in general are exempt from the effect of a PSPO.

would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision.

## Licensing hours

- 14.51 With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 14.52 Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

## Children

- 14.53 It is an offence under the 2003 Act to:
- permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a TEN; and
  - to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or TEN.
- 14.54 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the offences under the 2003 Act. The expression 'exclusively or primarily' should be given its ordinary and natural meaning in the context of the particular circumstances.
- 14.55 Where it is not clear that the business is predominately for the sale and consumption of alcohol, operators and enforcement agencies should seek to clarify the position before enforcement action is taken. Mixed businesses may be more difficult to classify and in such cases operators and enforcement agencies should consult where appropriate

about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.

- 14.56 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed premises. Each application and the circumstances of individual premises must be considered on their own merits.
- 14.57 A statement of licensing policy should not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them (please see Chapter 2). It may not be possible for licensing policy statements to anticipate every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application should be considered in each case.
- 14.58 A statement of licensing policy should make clear the range of alternatives which may be considered for limiting the access of children where that is appropriate for the prevention of harm to children. Conditions which may be relevant in this respect are outlined in paragraph 2.27.
- 14.59 Statements of policy should also make clear that conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is appropriate, this should remain a matter for the discretion of the individual licence holder, club or premises user.
- 14.60 Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.

## Responsible authority and children

- 14.61 A statement of licensing policy should indicate which body the licensing authority judges to be competent to act as the responsible authority in relation to the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or other competent body as agreed locally. It would be practical and useful for statements of licensing policy to include descriptions of the responsible authorities in any area and appropriate contact details.

## Children and cinemas

- 14.62 The statement of policy should make clear that in the case of premises giving film exhibitions<sup>17</sup>, the licensing authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film

<sup>17</sup> See paragraphs 15.22-15.24 in relation to the licensing exemption for an exhibition of a film on community premises.

## Integrating strategies

- 14.63 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

## Planning and building control

- 14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 14.65 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

## Promotion of equality

- 14.66 A statement of licensing policy should recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 14.67 Public authorities are required to publish information at least annually to demonstrate their compliance with the Equality Duty. The statement of licensing policy should refer to this legislation, and explain how the Equality Duty has been complied with. Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

## Administration, exercise and delegation of functions

- 14.68 The 2003 Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its licensing committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The licensing committee may delegate these functions to sub-committees consisting of three members of the committee, or in



appropriate cases to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.

- 14.69 The 2003 Act does not prevent the development by a licensing authority of collective working practices with other parts of the local authority or other licensing authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the licensing committee, its sub-committees or officers.
- 14.70 Where, under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system. Licensing committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation. Although essentially a matter for licensing authorities to determine themselves, it is recommended that delegation should be approached in the following way:

**Table: Recommended Delegation of Functions**

<b>Matters to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

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Committee Comments	Officer Response
<p>Taken from minutes of Full Licensing Committee - Wednesday, 2nd September, 2020 4.00 pm</p> <p>Members made the following points:</p> <ul style="list-style-type: none"> <li>- praised particular elements of the town’s licensing policy, such as takeaway restaurants being open later than establishments selling alcohol, and asked the Licensing Officer how effective he felt the policy statement was as a strategy. The Licensing Officer emphasised that he felt it was a very helpful tool that informed potential applicants exactly what was expected of them.</li> <li>- There were further questions about the night-time economy, particularly the section of the policy relating to ‘designated areas of concern’ and ‘cumulative impact areas’ (paras. 6.8-6.11). The Licensing Officer responded that the council had been careful in its wording, referring to parts of the town with a particularly large number of establishments serving alcohol as ‘areas of concern’. He suggested that significant evidence would be required for the council to go down the route of deploying this tool. It was a robust mechanism that had not been required so far. The Licensing Act 2003 gave authorities plenty of scope. He added that it would ultimately come down to the quality of representations or objections received on an application.</li> <li>- One Member raised that on page 68, alcohol sales priced by volume/avoiding promotions which encourage excessive alcohol consumptions. Lots of conditional language like ‘should’ and ‘can’ – less concrete policy than he would like. The Chair agreed with RW’s suggestion that the policy should say ‘must’ rather than ‘should’ in the examples cited, in order to increase clarity. The Legal Officer warned that this might be seen as a more specific condition</li> </ul>	<p>The pool of conditions in the policy should act as a guide for applicants and licensees to refer to when formulating applications. As such, they are deliberately not overly explicit to leave some scope to tailor them to each individual case.</p> <p>There remains the right for responsible authorities to intervene if they consider proposed conditions to be too weak. In addition, the licensing committee can impose or vary any conditions on a case to case basis.</p>

- Is the council was legally allowed to put a minimum price on alcohol, like in Scotland? Licensing Officer responded that he believed this was not the case, and it was not within the council's legal scope – English authorities have not gone down this route. He added that there was a minimum price per unit in England, set at the level of alcohol duty plus VAT. However, in March 2020, the UK govt. stated that there were no plans to implement minimum alcohol pricing, although it was monitoring the situation in Scotland. The Chair added that the policy would monitor areas where proxy sales might be common

– vendor required to display clear notices stating that it was an offence to purchase alcohol under the age of 18.

- The Chair made a number of further suggestions, which the Licensing Officer responded to. He suggested monitoring the disposal of glass recycling, and enhancing the wording in part 6.59, which referred to shops selling alcohol. The Licensing Officer agreed that these would be useful additions.

DW also suggested monitoring the use of 'creamer' cartridges (NO2), although the Licensing Officer suggested that this could not be restricted through licensing protocols except in the context of an event.

It is therefore not proposed that any changes are made to the proposed conditions.

The policy document already includes a challenge 21/25 provision which has the same effect as the proposed notice. In addition, selling alcohol to a minor is already an offence in the legislation and the statutory guidance is clear that conditions must not duplicate statutory provisions.

Statement strengthened in respect of underage sales "*including the increased potential for underage and proxy sales which is detrimental to the protection of children from harm.*"

The Psychoactive Substances Act 2016 already creates an office for the use of NO2 cartridges for non-catering purposes. The statutory guidance is clear that conditions must not duplicate statutory provisions and as such it is not necessary to implement any changes.

**Cheltenham Borough Council**  
**Council - 7 December 2020**  
**Local Council Tax Support Scheme for 2021/22**

<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>Each year the council is required to consider its Local Council Tax Support Scheme for working age customers. for 2021/22 but Consultation has been undertaken although no significant changes are being proposed changes to the scheme for 2021/22.</p> <p>Council is being asked to approve the scheme in appendix 2 and summarised in appendix 3 the Local Council Tax Support scheme for working age customers for 2021/22</p> <p>The scheme for pension age customers is not affected by these changes as it is set by Government and administered by the council</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 2021/22 for working age customers in Appendix 2 and summarised in Appendix 3</b></li> <li><b>2) gives authority to the Executive Director for Finance and Assets in consultation with the Cabinet Member Finance to uprate income levels in line with any uprating of Welfare Benefits by 31 January 2021, if required</b></li> </ol>

<b>Financial implications</b>	<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.</p> <p>From 2018/19 this council no longer receives a revenue support grant and must fund its share of the cost of the scheme. Moving to the scheme based on income bands reduced the cost of the scheme by over £0.5m in 2019/20.</p> <p>The working age council tax support caseload has so far increased by 20% in 2020/21 and the cost has risen to £4.1m. A further £306,000 has been awarded in “top up” hardship awards. These awards have effectively offset what would have been council tax support funded with precepting authorities proportionate to the share of council tax. Instead the total value awarded at the end of the year will be credited to the collection fund.</p> <p>The total amount awarded as extra reductions of up to £150 reduce the amount of council tax due to be collected and the total value at the end of the year will also be credited to the collection fund.</p> <p>It is unlikely that there will be a hardship fund grant in 2021/22 so the proposal to increase the income levels in the council tax support scheme is prudent. It will ensure that recipients continue to receive the same level of support with the cost being funded jointly with the County Council and police, proportionate to the share of council tax.</p> <p><b>Contact officer:</b></p> <p><b>Paul.jones@cheltenham.gov.uk, 01242 264365</b></p>
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<b>Legal implications</b>	<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 Government 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>If the Council does not make/revise a LCTS scheme by the prescribed deadline, a default scheme will be imposed on the Council which will be effective from April 2021.</p> <p><b>Contact officer: One Legal – <a href="mailto:legal.services@tewkesbury.gov.uk">legal.services@tewkesbury.gov.uk</a></b></p>
<b>HR implications (including learning and organisational development)</b>	There are none associated with this report
<b>Key risks</b>	<b>See appendix 1</b>
<b>Corporate and community plan Implications</b>	The proposals in this report help maintain financial sustainability in the light of ongoing reductions in income whilst ensuring we continue to protect the most vulnerable individuals and families by providing 100% support to those on the lowest income and the Discretionary Hardship Scheme
<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 pay their council tax. This scheme replaced the national Council Tax Benefit Scheme. Each year the Council has to decide whether to make changes to its scheme for the forthcoming financial year.
- 1.2 The Council is also required to administer, but cannot alter, the national council tax support scheme for pension age customers.
- 1.3 The local council tax support scheme works in a similar way to other council tax discounts, the tax base is reduced meaning the cost is met by this council, Gloucestershire County Council, Gloucestershire Police Authority and the parish councils in proportion to the share of the council tax.
- 1.4 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 the Revenue Support Grant and was reduced in line with other cuts in funding. From 2018/19 this council no longer receives Revenue Support Grant and must fund its share of the cost of the scheme.
- 1.5 The local council tax support scheme for working age people from 2013/14 to 2018/19 in Cheltenham continued to mirror the previous council tax benefit scheme whilst the majority of Councils had reduced support. In 2018/19 Cheltenham was one of only 36 councils out of 326 that were continuing to provide the level of support available under the former council tax benefit scheme.
- 1.6 In 2019/20 a local council tax support scheme based on five income bands was introduced 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.

## 2. 2020/21 Local Council Tax Support Scheme

- 2.1 Some minor revisions to the scheme were made in 2020/21 compared to 2019/20 to ensure the most vulnerable residents were protected.
- 2.2 The number of working age council tax support recipients has increased during 2020/21 due to the impact of Covid-19. On 1<sup>st</sup> March 2020 the number of recipients was 3,984 and this has increased to 4,805 at the end of October 2020, an increase of almost 20%.
- 2.3 As part of the measures of assistance in relation to COVID-19, Government provided local authorities in England with a Council Tax Hardship Fund grant to support economically vulnerable people and households in their local area. Cheltenham received a grant of £851,709. The fund is being used to help council tax support recipients in two ways:
  1. The Government is paying an additional £20 p/w Universal Credit or Working Tax Credit during 2020/21 due to Covid-19. Many of our customers receiving 100% council tax support have been paid this extra £20 per week which counts as income when calculating how much support is awarded. The higher income results in the level of support reducing to a lower band, ie 80% instead of 100%.

As it was not legally possible to change the council tax support scheme when this extra income was announced the hardship fund has been used to top the level of support back up to the amount before the additional income is included. The top up awards are treated

as council tax support but funded from the hardship fund.

At the end of October 2020 top up awards totalling £306,000 have been made to 2,390 working age council tax support recipients.

2. When the Government provided the Hardship fund it made clear that it expected councils to provide all recipients of working age Local Council Tax Support who have to pay some council tax a further reduction of up to £150. This award is not treated as council tax support just a council tax reduction.

At the end of October 3,113 working age council tax support recipients have been paid hardship award payments of up to £150 making the total over £414,000.

- 2.4 Some have received both types of award from the hardship fund. In total 3,700 council tax support recipients have received awards totalling £720,000. It is expected that a significant portion of the remaining balance will be awarded by 31 March 2021.
- 2.5 The total amount of council tax support being paid to working age recipients at 31 October, hardship is just under £4.1m. This is £4.4m if the top up hardship awards of £306,000 are included. When council tax bills were produced on 1st March 2020 the amount was just over £3.6m.

### **3. Consultation**

- 3.1 No significant changes to council tax support scheme are being proposed for 2021/22.
- 3.2 A consultation exercise was undertaken from 7 October to 6 November 2020 asking Cheltenham residents whether the Council should continue to ensure that the most vulnerable residents receive 100% support. Details of the exercise are in section 4 of this report and appendix 4
- 3.3 The consultation only attracted 32 respondents. From the 32 respondents, 23 (72%) either agreed or strongly agreed that 100% support should continue, 4 (12%) were neutral and 5 (16%) either disagreed or strongly disagreed to continue with 100% support.
- 3.4 From the total number of 32 recipients, just 7 (22%) were receiving council tax support themselves. The remaining 25 (78%) were not receiving council tax support but still favoured continuing to provide 100% support to the most vulnerable recipients

### **4. 2021/22 Local Council Tax Support Scheme**

- 4.1 The proposed scheme, as summarised in appendix 3, continues to be based on five 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
- 4.2 To ensure that the most vulnerable working age council tax support recipients continue to receive the same level of support the income levels for each band are being increased by £20.
- 4.3 The increase is £20 as it is uncertain whether the Government will continue to pay the same level of welfare benefits that they are paying in 2020/21.
- 4.4 If the income level in the scheme are not increased council tax support for many of our vulnerable residents may be reduced which is not the intention of our scheme. Without hardship funding it

would not be possible to top up the level of support.

- 4.5 If the additional £20 per week income is not continued, taking into account an annual uprating of welfare benefits and some pay increases, based on the current year council tax levels it is estimated the cost would be approximately £65,000
- 4.6 The Government may decide to apply some annual uprating to welfare benefits in addition to continuing the £20. A decision on this is usually made in late December/ early January. So that these, if implemented by the Government can be accounted for in the scheme for 2021/22 authority will be sought from Council for the Executive Director for Finance and Assets in consultation with the Cabinet Member Finance to apply the same upratings to the income levels in the council tax support scheme, provided this is no later than 31 January 2021.
- 4.7 Adopting the proposed scheme and applying Government upratings, if required, will ensure that the most vulnerable residents continue to receive 100% council tax support.
- 4.8 A Community Impact Assessment (CIA) for the proposed scheme is in appendix 5

**5. Discretionary Hardship Relief Scheme**

- 5.1 The discretionary hardship relief scheme will continue to be available to support customers with exceptional circumstances and/or financial hardship.

**6. Alternative options considered**

- 6.1 If the proposed changes are not adopted certain vulnerable groups will not receive the same level of council tax support in 2021/22.

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

- 7.1 The proposed scheme will be monitored closely by officers and will be reviewed before developing the scheme for 2022/23

<b>Report author</b>	<b>Contact officer: Jayne Gilpin, Head of Revenues and Benefits</b> <b>Jayne.gilpin@cheltenham.gov.uk,</b> <b>01242 264323</b>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Draft scheme conditions for 2021/22</li> <li>3. Summary of draft scheme</li> <li>4. Consultation analysis and responses</li> <li>5. Community 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 2021.	Jayne Gilpin	13/11/2020	2	1	2	Accept	Council approves the report recommendations	08/12/20	Jayne Gilpin	
2											
3											
<b>Explanatory notes</b>											
<p><b>Impact</b> – 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)</p> <p><b>Likelihood</b> – 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)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

**Guidance**

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;
- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

**Risk ref**

If the risk is already recorded, note either the corporate risk register or TEN reference

**Risk Description**

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

**Risk owner**

Please identify the lead officer who has identified the risk and will be responsible for it.

**Risk score**

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

**Control**

Either: Reduce / Accept / Transfer to 3rd party / Close

**Action**

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

**Responsible officer**

Please identify the lead officer who will be responsible for the action to control the risk.  
For further guidance, please refer to the [risk management policy](#)

**Transferred to risk register**

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on

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**Cheltenham Borough Council**

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

**2021/22**

**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
10. Circumstances in which a person is to be treated as responsible (or not responsible) for a child or young person
11. Circumstances in which a child or young person is to be treated as being or not being a member of the household

**Section 12-29 & Schedules 1 & 2 (Definition and treatment of income for council tax support)**

12. Calculation of income and capital of members of applicant's family and of a polygamous marriage
13. Circumstances in which the capital and income of a non-dependant is to be treated as applicant's
14. Calculation of income on a weekly basis
15. Treatment of child care charges
16. Average weekly earnings of employed earners
17. Average weekly earnings of self-employed earners
18. Average weekly income other than earnings
19. Calculation of average weekly income from tax credits
20. Calculation of weekly income
21. Disregard of changes in tax, contributions, etc.
22. Earnings of employed earners
23. Calculation of net earnings of employed earners
24. Earnings of self-employed earners

- 25. Calculation of net profit of self-employed
- 26. Deduction of tax and contributions of self-employed earners
- 27. Calculation of income other than earnings
- 28. Capital treated as income
- 29. Notional income

**Sections 30-39 & Schedule 4 (Definition and the treatment of capital for council tax support)**

- 30. Capital limit
- 31. Calculation of capital
- 32. Disregard of capital of child and young person
- 33. Income treated as capital
- 34. Calculation of capital in the United Kingdom
- 35. Calculation of capital outside the United Kingdom
- 36. Notional capital
- 37. Diminishing notional capital rule
- 38. Capital jointly held
- 39. Calculation of tariff income from capital

**Section 40-53 (Definition and the treatment of students for council tax support)**

- 40. Student related definitions
- 41. Treatment of students
- 42. Students who are excluded from entitlement to council tax support
- 43. Calculation of grant income
- 44. Calculation of covenant income where a contribution is assessed
- 45. Covenant income where no grant income or no contribution is assessed
- 46. Student Covenant Income and Grant Income – non disregard
- 47. Other amounts to be disregarded
- 48. Treatment of student loans
- 49. Treatment of fee loans and treatment of payments from access funds
- 50. Disregard of contribution
- 51. Further disregard of student's income
- 52. Income treated as capital

53. Disregard of changes occurring during summer vacation

**Sections 54-65 (The calculation and amount of council tax support)**

54. Maximum council tax support

55. Non-dependant deductions

56. Extended support

57. Duration of extended support period

58. Amount of extended support

59. Extended support – movers

60. Relationship between extended support and entitlement to council tax support under the general conditions of entitlement

61. Extended support (qualifying contributory benefits)

62. Duration of extended support period (qualifying contributory benefits)

63. Amount of extended support (qualifying contributory benefits)

64. Extended support (qualifying contributory benefits) – movers

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

**Sections 66-67 (Dates on which entitlement and changes of circumstances are to take effect)**

66. Date on which entitlement is to begin.

67. Date on which change of circumstances is to take effect.

**Sections 68-75 (Claiming and the treatment of claims for council tax support)**

68. Making an application

69. Procedure by which a person may apply for a reduction under the authority's scheme

70. Date on which an application is made

71. Submission of evidence electronically

72. Use of telephone provided evidence

73. Information and evidence

74. Amendment and withdrawal of application

75. Duty to notify changes of circumstances

**Sections 76-83 (Decisions, decision notices and awards of council tax support)**

76. Decisions by the authority

77. Notification of decision



- 78. Time and manner of granting council tax support
- 79. Persons to whom support is to be paid
- 80. Shortfall in support
- 81. Payment on the death of the person entitled
- 82. Offsetting
- 83. Payment where there is joint and several liability

**Sections 84-87 (Collection, holding and forwarding of information for council tax support)**

- 84. Use of information from and to the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC)
- 85. Collection of information
- 86. Recording and holding information
- 87. Forwarding of information

**Sections 88-91 (Revisions, written statements, termination of council tax support)**

- 88. Persons affected by decisions
- 89. Revisions of decisions
- 90. Written statements
- 91. Terminations

**Section 92 (Appeals against the authority's decisions)**

- 92. Procedure by which a person may make an appeal against certain decisions of the authority

**Section 93 (Procedure for applying for a discretionary reduction)**

- 93. Procedure for an application to the authority for a reduction under section 13A(1)(c) of the 1992 Act

**Section 94-100 (Electronic Communication)**

- 94. Interpretation.
- 95. Conditions for the use of electronic communication
- 96. Use of intermediaries
- 97. Effect of delivering information by means of electronic communication
- 98. Proof of identity of sender or recipient of information
- 99. Proof of delivery of information
- 100. Proof of content of information

**Section 101 (Counter Fraud and Compliance)**

**Schedule 1**

Sums to be disregarded in the calculation of earnings

**Schedule 2**

Sums to be disregarded in the calculation of income other than earnings

**Schedule 3**

Disabled child additional disregard

**Schedule 4**

Capital to be disregarded

## Section 1

### Details of support to be given to working age customers for the financial year 2021/22

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

1.1 The following scheme has been adopted by the Council on xx December 2020 in respect of the period 1<sup>st</sup> April 2021 – 31st March 2022.

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 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)

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 098	000.00 to 140	000.00 to 175	000.00 to 230	100%
Band 2	098.01 to 125	140.01 to 175	175.01 to 200	230.01 to 280	80%
Band 3	125.01 to 150	175.01 to 230	200.01 to 250	280.01 to 330	60%
Band 4	150.01 to 175	230.01 to 280	250.01 to 305	330.01 to 380	40%
Band 5	175.01 to 200	280.01 to 330	305.01 to 355	380.01 to 435	20%

1.10 These income bands will apply if the Government freezes welfare benefits, including Universal Credit, in the year 2021-22. However if an inflationary increase is applied to welfare benefits, the values above will need to be uprated to ensure that those applicants who the Council aims to provide 100% support to, still receive this full support during 2021-22.

1.11 If the Government announce increases to welfare benefits in year, after the council tax support scheme has been approved, the Council reserves the right to be able to disregard these increases in income to ensure that applicants continue to receive the intended level of support.

## 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 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 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-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or 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;

**‘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;

**‘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 meaning as in section 15(1) of the Electronic Communications Act 2000; Page 187

**‘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;

**‘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)**;

**'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;

**'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;

**‘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 55;

**‘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

**‘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;

**‘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) or 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 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;

**‘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;

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- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State, or Scottish Enterprise or Highlands and Islands Enterprise or 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 servicesin 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”

**'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.

**'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;

**‘war disablement pension’** means any 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;

**‘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 still applies 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 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 pursuant to regulation 3 of the Displaced Persons (Temporary protection) Regulations 2006,

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- (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 person2 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;
  - 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.

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- 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;
- 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
  - placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
  - 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-
- is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
  - has been placed, or in Scotland boarded out, with a person other than the applicant prior to adoption; or
  - 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;
- that child or young person lives with the applicant for part or all of that reduction week; and
  - 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**

### **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 of the income prior to any earnings disregarded 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) any sum to be disregarded under paragraphs of Schedule 1 to this scheme (sums to be disregarded in the calculation of earnings);  
 (b) 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)

- 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 Section 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,

#### **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.

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

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- e. is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Contributions) 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 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 if 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 subparagraphs 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, Social Services and Public Safety in Northern Ireland under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.

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-

- a. in respect of whom disability living allowance or personal independence payment is payable, or has ceased to be payable solely because he is a patient;
- b. who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- c. who ceased to be registered as blind in such a register within the period beginning 28 weeks before the 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-

- a. in the week before the period of maternity leave, paternity leave or adoption leave began she was in remunerative work;
- b. the applicant is incurring relevant child care charges within the meaning of section 15.5; and
- c. 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-

- a. the date that leave ends;
- b. if no child care element of working tax credit is in payment on the date that entitlement to maternity allowance, qualifying support, statutory maternity pay, statutory paternity pay or statutory adoption pay ends, the date that entitlement ends; or
- c. if a child care element of working tax credit is in payment on the date that entitlement to maternity allowance or qualifying support, statutory maternity pay or statutory adoption pay ends, the date that entitlement to that award of the child care element of the working tax credits ends.

whichever shall occur first.

- a. **'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
- b. **'child care element'** of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act (child care element) 2002.

## 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 any remuneration or profit derived from that employment and includes- Page 206

- 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 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 insurance contributions under sections 25.11b)i); 25.3b)ii) or 25.9a) shall be the total of- **Page 210**

- 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-

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

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

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- 28.1 Any capital payable by instalments which, 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 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**

### **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

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- (b) a trust derived from a payment made in consequence of a personal injury; or
  - (c) any loan which would be obtained or 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

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 first 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.

**Sections 40 - 53**

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

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, or 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;

**'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 been 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 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

#### **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 first 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 **Page 228** 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**



- 54.1 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. The annual liability will also 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.
  - (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 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 Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, the Dependent 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
- (b) on the date on which the applicant ceases to be entitled to council tax support, if 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 that applicant's partner would be entitled under the general conditions of entitlement, if applicable, and 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**

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- 66.1 Subject to section 66.2, any person to 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 marriage an application is to be made by whichever one of them they agree should 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 using the approved form or the on line claim form, or
  - (b) where the authority has published a telephone number for the purpose of receiving such applications, by telephone, or



(c) by submitting a claim for Universal Credit Department for Work and Pensions, the content of which and the Universal Credit award are used to determine council tax support.

- 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;

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- (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 received at the offices of the authority properly completed within one month of the date of the form 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 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 must give notice to the designated office at any time before a decision has been made on it. Page 241

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 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 where there is a reduction in the amount of council tax support payable, 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

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

## **Page 244**

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 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 **Page 247**
- (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 with 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 it 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 101.1 and 101.2 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 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 employment and support allowance (including income-based or those in the work related activity group or support group) 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 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 10(1)(a) of the National Assistance Act 1948;
- (e) a primary care trust established under section 15A 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).

**23.** Any payment of income which, by virtue of section 36 (income treated as capital) is to be treated as capital.

**24.** Any social fund payment made pursuant to Part 8 of the Act (the Social Fund).

**25.** Any payment under Part 10 of the Act (Christmas bonus for pensioners).

- 26.**
- (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 the 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.

- 27. Any housing benefit, the housing element or a limited work capability of Universal Credit. Where the assessment of Universal Credit includes a housing element and/or a limited work capability element, this will be disregarded from the Universal Credit award. The remaining award amount will then be treated as income.
- 28. Any payment made by the Secretary of State to compensate for the loss (in whole or in part) of entitlement to housing benefit.
- 29. (1) Any payment of child maintenance made or derived from a liable relative where the child or young person in respect of whom the payment is made is a member of the applicant's family, except where the person making the payment is the applicant or the applicant's partner.  
 (2) In paragraph (1) 'child maintenance' means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under;
  - (a) the Child Support Act 1991;
  - (b) the Child Support (Northern Ireland) Order 1991;
  - (c) a court order;
  - (d) a consent order;
  - (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;
 'liable relative' means a person listed in regulation 54 (interpretation) of the Income Support (General) Regulations 1987, other than a person falling within sub-paragraph (d) of that definition.
- 30. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001.
- 31. (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.
- 32. Any payment of child benefit.
- 33. If the Government announce increases to welfare benefits in year, after the council tax support scheme has been approved, the Council reserves the right to be able to disregard these increases in income to ensure that applicants continue to receive the intended level of support.

### Schedule 3

#### Disabled child additional disregard

- 1. An additional disregard of £100 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.

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**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 a period as is reasonable in the circumstances to enable him to become so 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 allowancebut 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.

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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 estrangement or divorce (or 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 1(1) of the Enterprise and New Towns (Scotland) Act 1990, but only for a 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 subparagraph (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 (1) 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 12(2)(c) of the Further and Higher Education (Scotland) Act 1980; or  
(c) directions made under section 12(2)(c) of the Further and Higher 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) attains
 whichever is the latest.

(5) In this paragraph, a reference to a person-

- (a) being the diagnosed person's partner;
  - (b) being a member of a diagnosed person's family;
  - (c) acting in place of the diagnosed person's parents,
- at the date of the diagnosed person's death shall include a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph-

'diagnosed person' means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-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 council tax support scheme 2021-22

The council tax support scheme from 1 April 2021 for working age people will continue to 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. The new scheme will apply without exception from 1 April 2021.

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 098	000.00 to 140	000.00 to 175	000.00 to 230	100%
Band 2	098.01 to 125	140.01 to 175	175.01 to 200	230.01 to 280	80%
Band 3	125.01 to 150	175.01 to 230	200.01 to 250	280.01 to 330	60%
Band 4	150.01 to 175	230.01 to 280	250.01 to 305	330.01 to 380	40%
Band 5	175.01 to 200	280.01 to 330	305.01 to 355	380.01 to 435	20%

**It may be necessary to apply a further small inflationary increase to these income band figures but this will only be necessary if the government increases further the rates of social security benefits and Universal Credit.**

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 new 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 2 and the discount they will continue to receive is 80%.

## **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.  
\* Please see examples at the end of this document.

## **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
- Limited Work Capability element of Universal Credit
- War Disablement Pension
- War Widow's Pension
- Christmas bonus paid by DWP
- Employment & Support Allowance – work related and support

## **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 £100 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

**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 Relief 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 Relief 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 Relief scheme. An application will need to be made and it will be considered in accordance with the Council's policy.



\* Examples relating to the disregard of the Housing Element within Universal Credit:

The housing costs element of a person's Universal Credit award will be disregarded in full up to the level of the Net UC award.

Example 1

Universal Credit Maximum Amount		Universal Credit Incomes	
Standard Allowance	409.89	Net UC Award	729.89
Carer Element		Tariff Income	
Limited work capability		Household Earnings	
Child Element		Applicable Income	
Childcare Element		Other adjustments	
Housing Element	320.00		

Therefore the person's income to be taken into account for the purpose of the banded scheme is £729.89 - £320.00 (Housing Element) = £409.89 pcm or £94.59 per week.

Example 2

Where the UC award is subject to a managed payment direct to a landlord and this is included as an other adjustment, the Net UC award will be aggregated with the managed payment as follows:

Universal Credit Maximum Amount		Universal Credit Incomes	
Standard Allowance	409.89	Net UC Award	409.89
Carer Element		Tariff Income	
Limited work capability		Household Earnings	
Child Element		Applicable Income	
Childcare Element		Other adjustments	320.00
Housing Element	320.00		

Therefore the person's income to be taken into account for the purpose of the banded scheme is £409.89 + £320.00 = £729.89 - £320.00 (Housing Element) = £409.89 pcm or £94.59 per week.

Example 3

Sometimes the value of the Net UC Award and the managed payment will be less than the Housing Element. In these instances the Housing Element will be disregarded up to the value of the Net UC Award and the managed payment.

Universal Credit Maximum Amount		Universal Credit Incomes	
Standard Allowance	409.89	Net UC Award	181.19
Carer Element		Tariff Income	
Limited work capability		Household Earnings	724.81
Child Element		Applicable Income	
Childcare Element		Other adjustments	
Housing Element	320.00		

Therefore the person's income to be taken into account for the purpose of the banded scheme will be £181.19 - £320.00 (Housing Element) = £NIL + £724.81 wages pcm or £167.26 per week (less the standard earnings disregard).

\* Example relating to the disregard of the Housing Element and Limited Work Capability element within Universal Credit:

Example 4

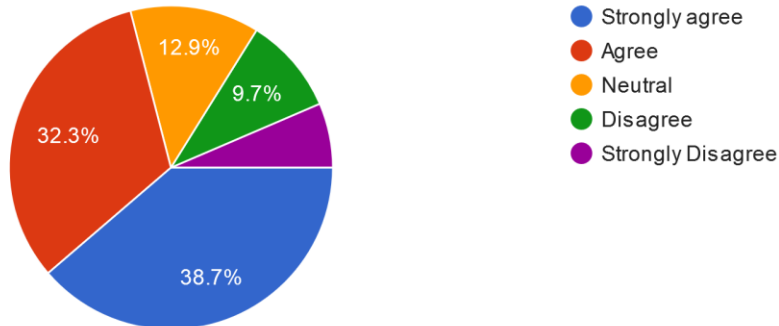
Universal Credit Maximum Amount		Universal Credit Incomes	
Standard Allowance	409.89	Net UC Award	1071.81
Carer Element		Tariff Income	
Limited work capability	341.92	Household Earnings	
Child Element		Applicable Income	
Childcare Element		Other adjustments	
Housing Element	320.00		

Therefore the person's income to be taken into account for the purpose of the banded scheme is £409.89 + £341.92 + £320.00 = £1071.81 - £341.92 (Limited Work Capability element) - £320.00 (Housing Element) = £409.89 pcm or £94.59 per week.

These are the exceptions and all other elements of Universal Credit will be taken fully into account as income.

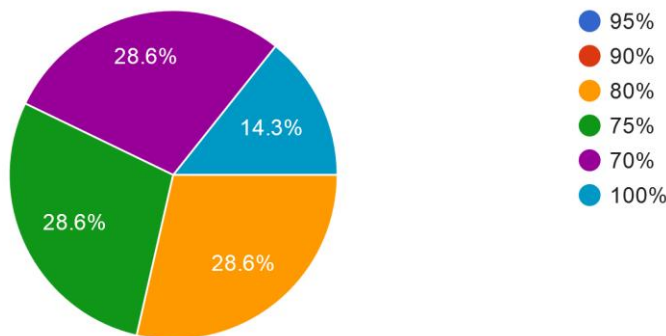
Under the current scheme a person can receive 100% council tax support and does not have to make any contribution towards their council tax pa...e to receive 100% help towards their council tax?

31 responses



If you disagree or strongly disagree, what do you think the maximum amount of help should be?

7 responses



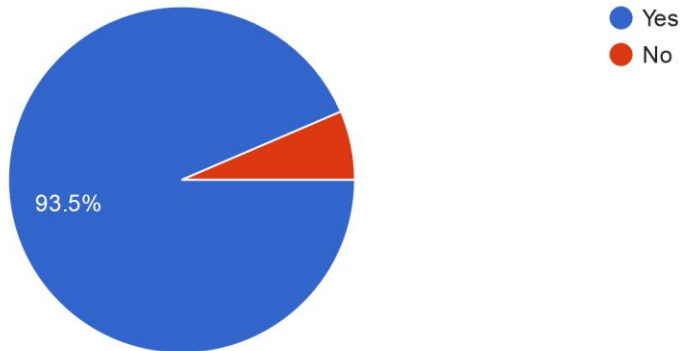
How do you think the council should continue to fund its council tax support scheme from April 2021?

31 responses



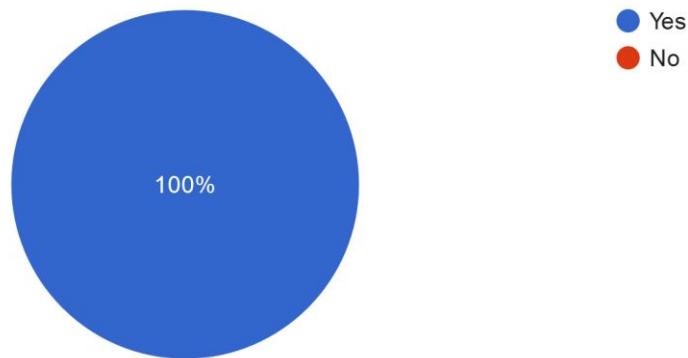
Are you a resident of the Cheltenham Borough area?

31 responses



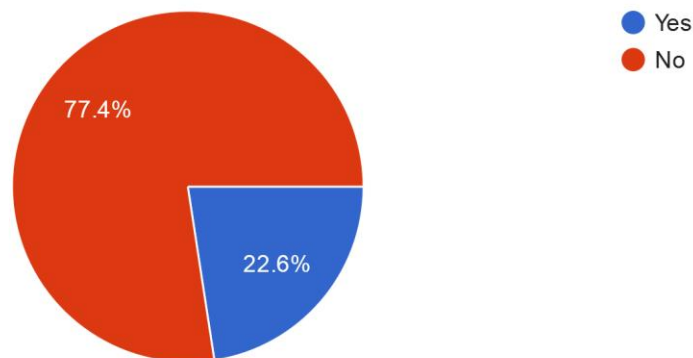
Are you registered for council tax?

30 responses



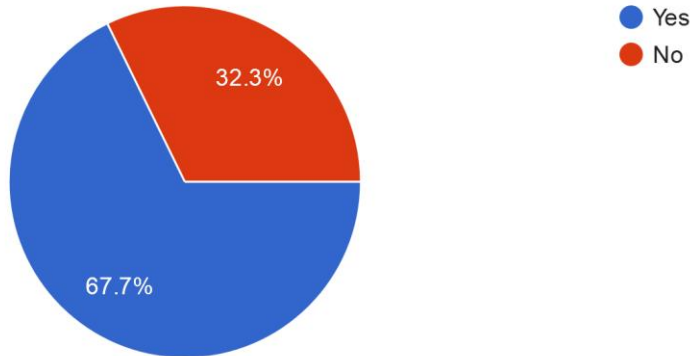
Do you currently receive council tax support?

31 responses



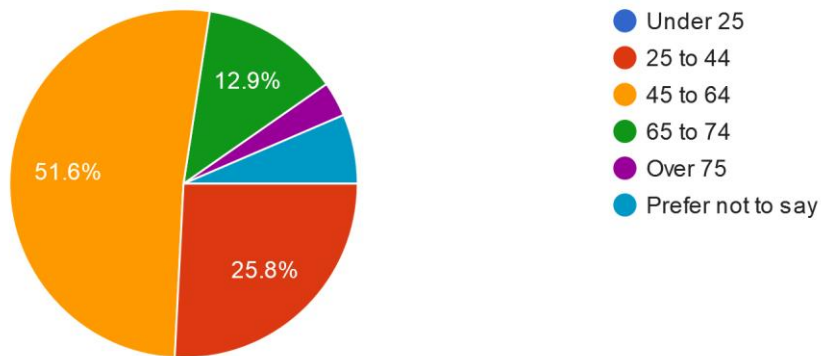
Are you in employment?

31 responses



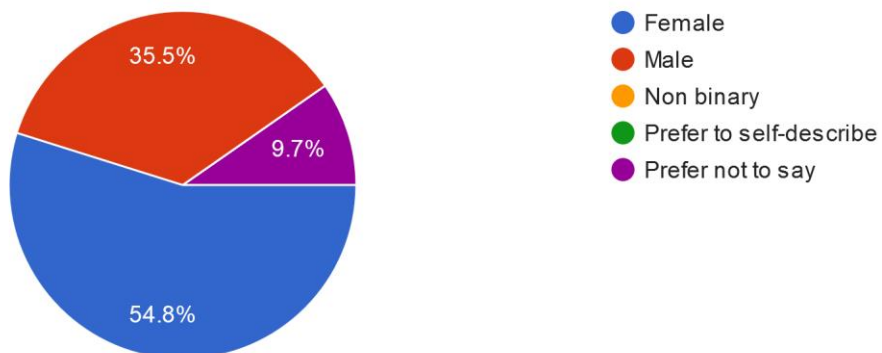
What is your age group?

31 responses



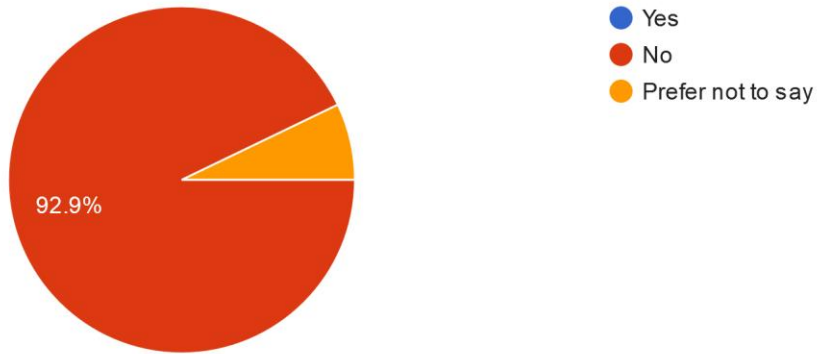
What is your gender?

31 responses



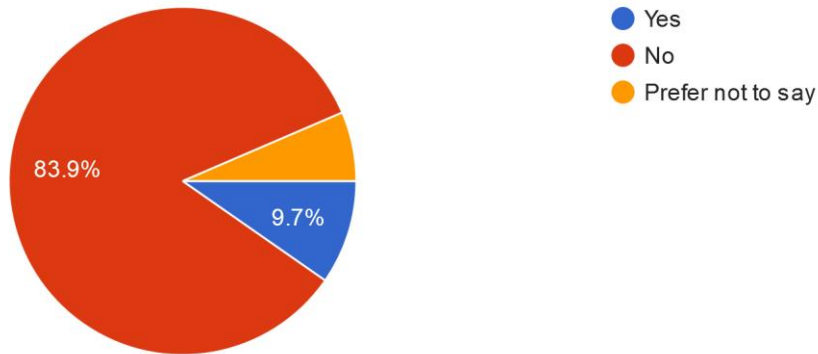
Do you identify as trans?

28 responses



Are you disabled?

31 responses



**Email received 15/10/2020**

Just found an invitation to share views in my moving pack. Me and my two older teenagers have just moved into a long awaited property in Leckhampton. We did an affordability check to make sure we could afford the high rent for a re bought CBH home.

I've been in ill health , my daughters at college and nephew looking for work.

Even in a couple of years , we ll be on low incomes .

I , as their parent carer , ABSOLUTELY rely on housing and council tax support and have had to battle and scrap my way through more than a few years to keep a roof over our heads and only because of this support can we be secure in our own home.

I've not just been driven to despair by UC ,but had a nervous breakdown twice and and now in ill health. The UC system of calculating peoples needs is an absolute farce. Designed to hurt not help.

Only with housing and council tax support can we as a family finally have some peace of mind and security.

We not all spongers. 5/6 years of CRUCIFYING SANCTIONS , HUMILIATION AND ABJECT DESPAIR AT THE HANDS OF THE GOV.

PLEASE DONT TAKE AWAY OUR HOUSING SUPPORT

VERY VERY VERY SINCERELY AND PETRIFIED YET AGAIN OF WHATS GONNA HIT ME NEXT NOW AFTER READING THAT.

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## Community impact assessments – for services, policies and projects

### What is a community impact assessment?

A community impact assessment is an important part of our commitment to delivering better services for our communities. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our communities, as well as 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.

### Background

<b>Name of service / policy / project and date</b>	<b>Revenues and Benefits. The service is making some minor adjustments to its Council Tax Support scheme from 1 April 2021. The changes being made to the existing scheme will have a positive financial impact on certain customers who receive support and will ensure that others maintain the support that they are already receiving.</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

<p><b>What is the aim of the service / policy / project and what outcomes is it contributing to</b></p>	<p>Council tax support is provided to around 7,000 households in Cheltenham at an annual cost of just under £6.7m. This includes working and pension age claimants. Approximately 68% 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.</p> <p>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.</p> <p>From April 2013, Councils became responsible for designing their own local council tax support (CTS) 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></p> <p>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.</p> <p>From 1 April 2019, Cheltenham Borough Council introduced a revised local council tax support scheme which increased the contribution that some people receiving help must make towards their council tax bills. From 1 April 2020, further changes were made to the scheme to provide further support to those people who receive a limited work capability payment in their Universal Credit. The Council is now in the position of considering further changes to the local council tax support scheme with effect from 1 April 2021.</p> <p>This year we have consulted on changes that could be made to the scheme from 1 April 2021. The aim of the service is to revise the council tax support scheme from 1 April 2021 but these changes will be limited to increasing the income bands sufficiently to ensure that the most vulnerable customers still receive 100% support.</p>
<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. The scheme will apply without exception from 1 April 2021.</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 be affected by introducing 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 2020.</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> <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>
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	<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>
<p><b>If not, who do you have plans to</b></p>	<p>Not applicable.</p>



**CHELTENHAM**  
BOROUGH COUNCIL

**consult with about the service /  
policy / project?**

### Step 3 - Assessing community 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>People from black and minority ethnic groups</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>People who are male or female</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>People who are transitioning from one gender to another</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>Older people / children and young people</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>People with disabilities and mental health challenges</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. There are provisions in the scheme to ignore certain disability benefits and this will continue so that the most vulnerable of customers	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 disabilities that are affected will be those who	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



	still receive 100% support	have additional income, for example, a partner with earnings		
<b>People who have a particular 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>People who are attracted to their own sex, the opposite sex or to both sexes.</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>People who are married or in a 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>People who are pregnant or who are on maternity leave</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 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

<p><b>Are any groups affected in different ways to others as a result of the service / policy / project?</b></p>	<p>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></p> <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's 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</p>



	will continue to receive up to 100% support ensuring that they continue to pay no (or very little) council tax.
<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. 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 £100 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, the Limited Work Capability element paid within Universal Credit 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>

## 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 December 2020 with a recommendation that it is adopted from 1 April 2021 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 2019 seeking Council approval.</p>
<p><b>Who will play a role in the decision-making process?</b></p>	<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 2020.</p>



<b>What are your / the project's learning and development needs?</b>	Full training will be provided to Revenues and Benefits staff ahead of the annual billing exercise in March 2021 which will detail the changes made to the scheme conditions.
<b>How will you capture these actions in your service / project planning?</b>	The changes to the existing scheme to be introduced from 1 April 2021 are minor and are not expected to impact on service planning. However the scheme implementation forms part of the annual Council Tax and uprating of benefits exercise. This exercise is carried out during February each year and will be overseen by the Head of Revenues and Benefits and the Deputy Revenues and Benefits Manager.

**Cheltenham Borough Council**  
**Council – 7 December 2020**  
**Treasury Mid-Term Report 2020/21**

<b>Accountable member</b>	<b>Cabinet Member for Finance, Councillor Rowena Hay</b>
<b>Accountable officer</b>	<b>Executive Director Finance and Assets ( Section 151 Officer), Paul Jones</b>
<b>Accountable scrutiny</b>	<b>Treasury Management Panel</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	The Treasury Management Strategy for 20/21 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>Recommendations</b>	The Treasury Management Panel considered this report on the 26 <sup>th</sup> November 2020 and has recommended that Council :  <b>1. Note the contents of the summary report of the treasury management activity during the first six months of 2020/21.</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>	The Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice 2017 Edition (the CIPFA Code) requires the authority to approve a Treasury Management Strategy before the start of each financial year and to keep it updated throughout the year. The report fulfils the authority's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.  <b>Contact officer: Shirin Wotherspoon, shirin.wotherspoon@tewkesbury.gov.uk, 01684 272696</b>
<b>HR implications (including learning and organisational development)</b>	None arising directly from this report  <b>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk. 01242 264355</b>

<b>Key risks</b>	As noted in Appendix 1
<b>Corporate and community plan Implications</b>	The purpose of the report is to improve corporate governance, a key objective for the Council
<b>Environmental and climate change implications</b>	None arising directly from this report

## 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 202/21 was approved at a meeting on 23rd March 2020. 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 remain central to the council's treasury management strategy.
- 1.3 The 2017 Prudential Code includes a requirement for local authorities to provide a Capital Strategy, a summary document approved by full Council covering capital expenditure and financing, treasury management and non-treasury investments. The Authority's Capital Strategy, complying with CIPFA's requirement, was approved by full Council on 23<sup>rd</sup> March 2020.

## Economic update for the first six months

- 2.1 The spread of the coronavirus pandemic dominated during the period as countries around the world tried to manage the delicate balancing act of containing transmission of the virus while easing lockdown measures and getting their populations and economies working again. After a relatively quiet few months of Brexit news it was back in the headlines towards the end of the period as agreement between the UK and EU on a trade deal was looking difficult and the government came under fire, both at home and abroad, as it tried to pass the Internal Market Bill which could override the agreed Brexit deal, potentially breaking international law.
- 2.2 The Bank of England (BoE) maintained Bank Rate at 0.1% and its Quantitative Easing programme at £745 billion. The potential use of negative interest rates was not ruled in or out by BoE policymakers, but then a comment in the September Monetary Policy Committee meeting minutes that the central bank was having a harder look at its potential impact than was previously suggested took financial markets by surprise.
- 2.3 Government initiatives continued to support the economy, with the furlough (Coronavirus Job Retention) scheme keeping almost 10 million workers in jobs, grants and loans to businesses and 100 million discounted meals being claimed during the 'Eat Out to Help Out' (EOHO) offer.
- 2.4 GDP growth contracted by a massive 19.8% (revised from first estimate -20.4%) in Q2 2020 (Apr-Jun) according to the Office for National Statistics, pushing the annual growth rate down to -21.5% (first estimate -21.7%). Construction output fell by 35% over the quarter, services output by almost 20% and production by 16%. Recent

monthly estimates of GDP have shown growth recovering, with the latest rise of almost 7% in July, but even with the two previous monthly gains this still only makes up half of the lost output. The headline rate of UK Consumer Price Inflation (CPI) fell to 0.2% year/year in August, further below the Bank of England's 2% target, with the largest downward contribution coming from restaurants and hotels influenced by the EHO scheme.

- 2.5 The US economy contracted at an annualised rate of 31.7% in Q2 2020 (Apr-Jun). The Federal Reserve maintained the Fed Funds rate at between 0% and 0.25% but announced a change to its inflation targeting regime. The move is to a more flexible form of average targeting which will allow the central bank to maintain interest rates at low levels for an extended period to support the economy even when inflation is 'moderately' above the 2% average target, particularly given it has been below target for most of the last.
- 2.6 The European Central Bank maintained its base rate at 0% and deposit rate at -0.5

### 3. Financial Markets

- 3.1 Equity markets continued their recovery, with the Dow Jones climbing to not far off its pre-crisis peak, albeit that performance being driven by a handful of technology stocks including Apple and Microsoft, with the former up 75% in 2020. The FTSE 100 and 250 have made up around half of their losses at the height of the pandemic in March. Central bank and government stimulus packages continue to support asset prices, but volatility remains.
- 3.2 Ultra-low interest rates and the flight to quality continued, keeping gilts yields low but volatile over the period with the yield on some short-dated UK government bonds remaining negative. The 5-year UK benchmark gilt yield started and ended the June–September period at -0.06% (with much volatility in between). The 10-year gilt yield also bounced around, starting at 0.21% and ending at 0.23% over the same period, while the 20-year rose from 0.56% to 0.74%. 1-month, 3-month and 12-month bid rates averaged 0.02%, 0.06% and 0.23% respectively over the period.
- 3.3 Credit default swap spreads eased over most of the period but then started to tick up again through September. In the UK, the spreads between ring-fenced and non-ring-fenced entities remains, except for retail bank Santander UK whose CDS spread remained elevated and the highest of those we monitor at 85bps while Standard Chartered was the lowest at 41bps. The ring-fenced banks are currently trading between 45 and 50bps.
- 3.4 After a busy second quarter of the calendar year, the subsequent period has been relatively quiet for credit changes for the names on our counterparty list. Fitch assigned a AA- deposit rating to Netherlands lender Rabobank with a negative outlook and prior to that, while not related to our counterparty list but quite significant, revised the outlook on the US economy to Negative from Stable while also affirming its AAA.
- 3.5 There continues to remain much uncertainty around the extent of the losses banks and building societies will suffer due to the impact from the coronavirus pandemic and for the UK institutions on our list there is the added complication of the end of the Brexit transition period on 31st December and what a trade deal may or may not look like. The institutions on Arlingclose's counterparty list and recommended duration remain under constant review, but at the end of the period no changes had been made to the names on the list or the recommended maximum duration of 35 days.

#### 4. Treasury Management Summary position 1/4/2020 to 30/9/2020

- 4.1 On the 31<sup>st</sup> March 2020, the Council had net borrowing of £150.959m 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>31.3.20 Actual £m</b>
General Fund CFR	120.452
HRA CFR	56.246
<b>Total CFR</b>	<b>176.698</b>
Less: Usable reserves	16.251
Less: Working capital	9.488
<b>Net borrowing</b>	<b>150.959</b>

- 4.2 The Council pursued its strategy of keeping borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low.

The treasury management position at 30<sup>th</sup> September 2020 and the change during the year is shown in Table 2 below.

Table 2: Treasury Management Summary

	<b>31.3.20 Balance £m</b>	<b>Movement £m</b>	<b>30.9.20 Balance £m</b>	<b>30.9.20 Rate %</b>
Long-term borrowing	115.951	(0.363)	115.588	3.22
Short-term borrowing	69.000	(11.500)	57.500	0.23
<b>Total borrowing</b>	<b>184.951</b>	<b>(11.863)</b>	<b>173.088</b>	<b>2.23</b>
Long-term investments	7.000	-	7.000	4.11
Short-term investments	15.600	(12.500)	3.100	1.56
Cash and cash equivalents	10.991	(9.876)	1.115	0.21
Icelandic	0.401	(0.006)	0.395	-
<b>Total investments</b>	<b>33.992</b>	<b>(22.382)</b>	<b>11.610</b>	<b>1.77</b>
<b>Net borrowing</b>	<b>150.959</b>	<b>10.519</b>	<b>161.478</b>	

- 4.3 Lower official interest rates have reduced the cost of short-term, temporary loans and investment returns from cash assets that can be used in lieu of borrowing. The Council pursued its strategy in funding the £39m capital asset purchase made in August 2019 with the use of temporary borrowing and then either take long term borrowing or use future capital receipts to repay it. Currently interest rates for this borrowing are around

0.10% to 0.15% which is much cheaper than fixing it to a long term loan.

- 4.4** On 9th October 2019 the PWLB raised the cost of certainty rate borrowing to 1.8% above UK gilt yields making it relatively expensive. Market alternatives are available, however the financial strength of individual authorities will be scrutinised by investors and commercial lenders. The Chancellor’s March 2020 Budget statement included significant changes to Public Works Loan Board (PWLB) policy and launched a wide-ranging consultation on the PWLB’s future direction. Announcements included a reduction in the margin on new Housing Revenue Account (HRA) loans to 0.80% above equivalent gilt yields (the value of this discount is 1% below the rate at which the authority usually borrows from the PWLB).
- 4.5** The consultation titled “Future Lending Terms” allows stakeholders to contribute to developing a system whereby PWLB loans can be made available at improved margins to support qualifying projects. It contains proposals to allow authorities that are not involved in “debt for yield” activity to borrow at lower rates as well as stopping local authorities using PWLB loans to buy commercial assets primarily for yield. The consultation also broaches the possibility of slowing, or stopping, individual authorities from borrowing large sums in specific circumstances. The consultation closed on 31st July 2020 with the announcement and implementation of the revised lending terms expected in the latter part of this calendar year or early next year.
- 4.6** As at 31st March 2020 the Council held loans of £184.951m and has reduced the amount of temporary borrowing by using cash investments which were earning very little interest. The balance as can be seen in Table 3 below shows a reduced figure of £173.088m as at 30th September 2020. The weighted average interest rate on these loans is 2.23% down from 2.36% in March 2020. Borrowing costs are expected to be £125,000 lower than forecasted with the budget at the end of the 2020/21 financial year.

Outstanding loans on 30<sup>th</sup> September are summarised in Table 3 below.

Table 3: Borrowing Position

	<b>31.3.20 Balance £m</b>	<b>2020/21 Movement £m</b>	<b>30.9.20 Balance £m</b>	<b>30.9.20 Rate %</b>
Public Works Loan Board	100.051	(0.363)	99.688	3.10
Banks (LOBO)	7.000	0	7.000	4.24
Banks (fixed-term)	8.900	0	8.900	3.82
Local authorities (short-term)	69.000	(11.500)	57.500	0.23
<b>Total borrowing</b>	<b>184.951</b>	<b>(11.863)</b>	<b>173.088</b>	<b>2.23</b>

## 5. Investments

- 5.1 The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the six month period the council's investment balance ranged between £11.614m and £56.988m due to timing differences between income and expenditure. The investment position is shown in table 4 below.

**Table 4: Treasury Investment Position**

	<b>31.3.20 Balance £m</b>	<b>Net Movement £m</b>	<b>30.9.20 Balance £m</b>	<b>30.9.20 Rate of Return %</b>
Banks & Building Societies (unsecured)	5.401	(5.401)	-	-
Local Authorities	10.000	(9.000)	1.000	1.00
Money Market Funds/ Call Accounts	10.990	(9.875)	1.115	0.20
CCLA Property Fund	3.000	-	3.000	3.76
Schroders Maximiser Fund	2.000	-	2.000	4.83
CCLA Diversified Income Fund	2.000	-	2.000	3.98
Gloucestershire Airport Loan	0.643	0.457	1.100	3.10
<b>Total Investments</b>	<b>34.034</b>	<b>(23.819)</b>	<b>10.215</b>	<b>1.77</b>

- 5.2 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 2020.
- 5.3 The corporate world is still adjusting to the economic shock, with probably more to come, and it is still too early to tell which companies will withstand the economic damage in the short- to medium-term or which will choose to conserve cash in very difficult economic conditions simply to survive. Investment income in the Council's 2020/21 budget was set against a very different economic backdrop. Bank Rate, which was 0.75% in January 2020, now stands at 0.10%. Interest earned from short-dated money market investments will be significantly lower. In relation to income from the Authority's externally managed strategic funds, dividends and income distributions will ultimately depend on many factors including but not limited to the duration of COVID-19 and the extent of its economic impact, the fund's sectoral asset allocation, securities held/bought/sold and, in the case of equities, the enforced or voluntary dividend cuts or deferral.
- 5.4 In February 2020 the Council's Investment income for 2020/21 was budgeted to be £436,500. The average cash balances representing the council's reserves and working balances, was £19.968m during the period this report covers, which is a reduction of over £3m compared with last year. The Council anticipates an investment outturn of around £309,000 at a rate of return of 1.70% for this financial year. Estimated deficit for investment income is likely to be around £127,500 for the financial year.
- 5.5 £7m of the Authority's investments are held in externally managed strategic pooled equity, multi-asset and property funds where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and long-term



price stability. These funds generated an average total return of 4.13% for the first 6 months of this financial year which is used to support services in year. Because the Council's externally managed funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Council's investment objectives are regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down on months, quarters and even years; but with the confidence that over a three- to five-year period total returns will exceed cash interest rate.

- 5.6** In a relatively short period since the onset of the COVID-19 pandemic in March and the ensuing enforced lockdown in many jurisdictions, the global economic fallout has been sharp and large. Market reaction was extreme with large falls in equities, corporate bond markets and, to some extent, real estate echoing lockdown-induced paralysis and the uncharted challenges for governments, business and individuals. Table 5 below shows the current valuations of the Pooled Funds portfolio at the end of September 2020 compared with the opening balances of 2020/21.

Table 5: Pooled Funds

FUND NAME	Initial Investment	1 April 2020 Fund Value	30 <sup>th</sup> Sept 20 Fund Value	Dividends paid out in 2020/21 as at 30 Sept	Gain / (Loss) for 2020/21	Gain / (Loss) to Initial Principal
	£	£	£	£	£	£
CCLA Property Fund	3,000,000	2,774,677	2,659,258	56,324	(115,419)	(340,323)
Schroders Income Maximiser Fund	2,000,000	1,184,864	1,135,220	45,246	(49,644)	(864,780)
CCLA Diversified Income Fund	2,000,000	1,823,816	1,949,232	19,836	125,416	(50,768)
<b>Total</b>	<b>7,000,000</b>	<b>5,783,357</b>	<b>5,743,710</b>	<b>121,406</b>	<b>(39,647)</b>	<b>(1,255,871)</b>

- 5.7** Net loan costs and investment interest should hopefully balance each other off at year end based on current predictions as reported.
- 5.8** The Housing Revenue Account (HRA) has kept its revenue reserves and balances close to what was estimated for 2020/21 budget and is expected to come in on budget for interest payable on these.

## **6. Outlook for the remainder of 2020/21**

- 6.1** The medium-term global economic outlook is weak. While the strict initial lockdown restrictions have eased, coronavirus has not been suppressed and second waves have prompted more restrictive measures on a regional and national basis. This ebb and flow of restrictions on normal activity will continue for the foreseeable future, at least until an effective vaccine is produced and importantly, distributed.

- 6.2** The global central banks and government responses have been significant and are in many cases on-going, maintaining more stable financial, economic and social conditions than otherwise. This has supported a sizeable economic recovery in Q3. However, the scale of the economic shock to demand, on-going social distancing measures, regional lock downs and reduced fiscal support will mean that the subsequent pace of recovery is limited. Early signs of this are already evident in UK monthly GDP and PMI data, even before the latest restrictions.
- 6.3** This situation will result in central banks maintaining low interest rates for the medium term. In the UK, Brexit is a further complication. Bank Rate is therefore likely to remain at low levels for a very long time, with a distinct possibility of being cut to zero. Money markets have priced in a chance of negative Bank Rate. Longer-term yields will also remain depressed, anchored by low central bank policy rates, expectations for potentially even lower rates and insipid inflation expectations. There is a chance yields may follow a slightly different path in the medium term, depending on investor perceptions of growth and inflation, or if the UK leaves the EU without a deal.
- 6.4** Our treasury advisors Arlingclose expects Bank Rate to remain at the current 0.10% level and additional monetary loosening in the future most likely through further financial asset purchases (QE). While Arlingclose's central case for Bank Rate is no change from the current level of 0.10%, further cuts to Bank Rate to zero or even into negative territory cannot be completely ruled out. See Arlingclose's interest rate forecast for the next three years in table 6.

Table 6: Interest rate forecast

	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23
Official Bank Rate													
Upside risk	0.00	0.00	0.00	0.15	0.15	0.15	0.15	0.30	0.30	0.30	0.30	0.30	0.30
Arlingclose Central Case	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
Downside risk	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50

## 6.5 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 7 below.

Table 7: Debt Limits

	30.9.20 Actual £m	2020/21 Operational Boundary	2020/21 Authorised Limit	Complied? Yes/No
Borrowing	173.088	310.000	320.000	Yes
Total debt	173.088	310.000	320.000	

Council approved on 23<sup>rd</sup> March 2020 the authorised borrowing limit and operational boundary limit are increased to the new levels as shown above in table 7.

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 Assessment – Appendix 1
<b>Background information</b>	Treasury Management Strategy & Capital Strategy, Council 23 <sup>rd</sup> March 2020

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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 2021	ED Finance & Assets Paul Jones	
	If the assumptions made within the strategies change, then the aspirations within the capital programme may become unaffordable	ED Finance & Assets Paul Jones	13 <sup>th</sup> March 2019	3	2	6	Accept	The Treasury Management Strategy and Prudential and Treasury Indicators reflect various assumptions of future interest rate movements and Government support for capital expenditure. These will be continually monitored and any necessary amendments will be made in accordance with the Strategy		ED Finance & Assets Paul Jones	

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
	If the assumptions made within the strategies change, then the projected returns and the return of the initial investments may not be received.	ED Finance & Assets Paul Jones	13 <sup>th</sup> March 2019	3	2	6	Accept	The Treasury Management Strategy and Prudential and Treasury Indicators reflect various assumptions of future interest rate movements and Government support for capital expenditure. These will be continually monitored and any necessary amendments will be made in accordance with the Strategy		ED Finance & Assets Paul Jones	
	If thorough due diligence is not undertaken when pursuing PRS schemes, the Council may not meet all of the criteria set out within its capital and investment strategies.	ED Finance & Assets Paul Jones	10 <sup>th</sup> October 2019	4	2	8		Due diligence is of paramount importance. All of our investments have individual business cases that are subject to thorough risk assessment and stress testing and we also stress test the whole housing to ensure all risks are captured and properly controlled. Where appropriate to the size and scale of the project we also commission independent technical, legal, accounting, risk management, property, taxation advice		ED Finance & Assets Paul Jones	



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**Cheltenham Borough Council  
Council – 7 December 2020**

**One Gloucestershire Consultation: Fit for the Future -Developing urgent and hospital care in Gloucestershire**

<b>Accountable member</b>	Councillor Flo Clucas, Cabinet Member for Cabinet Member Healthy Lifestyles
<b>Accountable officer</b>	Darren Knight, Executive Director – People & Change
<b>Ward(s) affected</b>	All
<b>Key/Significant Decision</b>	Yes
<b>Executive summary</b>	<p>Comprehensive NHS provision in Cheltenham is critical for not just the people of Cheltenham but also those service users who receive treatment from Cheltenham General Hospital throughout Gloucestershire and surrounding areas.</p> <p>Changes proposed to provision at Cheltenham General Hospital through the One Gloucestershire Consultation – Fit for the Future 2020, therefore need careful consideration, evaluation and response. It is therefore critical that the Council agrees its formal response to the consultation and makes its position clear as not only a key stakeholder but also as critical friend.</p> <p>Following a Council motion on the 16<sup>th</sup> November, the purpose of this report is to formally confirm the Council’s recommendations as part of the consultation response on the future of Cheltenham General Hospital and NHS provision in Gloucestershire.</p>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. <b>The issues highlighted in section 6 of this report to form the basis of the Council’s response to the Fit for the Future consultation to be submitted before the 17 December.</b></li> <li>2. <b>The Council report should also be forwarded to Gloucestershire County Council’s Health &amp; Overview Scrutiny Committee (HOSC) for their consideration.</b></li> </ol>

<b>Financial implications</b>	<p>There are no financial implications as a result of this report</p> <p><b>Contact officer: Martin Yates</b> <b>martin.yates@publicagroup.uk</b></p>
<b>Legal implications</b>	<p>There are no legal implications as a result of this report</p> <p><b>Contact officer: One Legal</b> <b>legal.services@tewkesbury.gov.uk, 01684 272012</b></p>

<b>HR implications (including learning and organisational development)</b>	There are no HR implications as a result of this report  <b>Contact officer: Julie McCarthy</b>  <a href="mailto:julie.mccarthy@publicagroup.uk">julie.mccarthy@publicagroup.uk</a> , 01242 264355
<b>Key risks</b>	Risk assessment attached
<b>Corporate and community plan Implications</b>	The Cheltenham place vision sets out the collective ambition for Cheltenham to be a place that champions physical and mental wellbeing. As a council it is therefore important that we place a high priority on ensuring that our residents have access to comprehensive health and wellbeing services that support people with their physical and mental wellbeing.
<b>Environmental and climate change implications</b>	The way in which services are organised in the future will have an impact on carbon emissions, which will be affected (positively or negatively) by the ways in which people are able to access services, the distance people need to travel to obtain treatment and also the frequency of transfer between hospitals.
<b>Property/Asset Implications</b>	There are no property implications as a result of this report  <b>Contact officer: Dominic.Stead@cheltenham.gov.uk</b>

## **1. Background:**

- 1.1 2020 has shown more than ever before how important comprehensive NHS provision is. Therefore, any proposed changes to local provision needs to be carefully considered, evaluated and responded to in order to ensure that service users now and in the future continue to receive the best possible provision.
- 1.2 The Council has a key role in this consultation process, not only as a stakeholder whose elected members represent the people of Cheltenham but also as a critical friend who want the best for service users and NHS employees.
- 1.3 Following a motion debated at full Council on the 16 November, it was agreed that the Council would prepare and agree a consultation submission reflecting the observations and direction for in motion and where Council can formally agree such submission prior to submission.
- 1.4 The purpose of this report is to formally confirm the Council's position and recommendations as part of the consultation on the future of Cheltenham General Hospital and NHS provision in Gloucestershire.

## **2. What is Fit for the Future:**

- 2.1 Fit for the Future is part of the One Gloucestershire vision focussing on the medium and long-term future of specialist hospital services at Cheltenham General Hospital (CGH) and Gloucestershire Royal Hospital (GRH).
- 2.2 More information about the proposed changes and consultation can be found from <https://www.onegloucestershire.net/yoursay/fit-for-the-future/> and from appendix 1 Fit-for-the-Future-Engagement-Booklet.

## **3. Council Motion:**

- 3.1 On the 16 November there was a motion raised at full Council, which was unanimously supported by members, which raised a number of concerns regarding the proposed changes, which included:
  - Council is concerned that A&E at Gloucestershire Royal Hospital does not have the capacity to cope with all A&E patients from the whole County. It is also less accessible from large parts of the county and does not have the Emergency Ambulance capacity. Council is also concerned the additional six-month extension at Cheltenham General Hospital could become a long term or permanent change.
  - Council urges the Trust not to downgrade our Type 1 A&E at all (i.e. to an Urgent Treatment Centre) and to present local councils with a long-term plan for the full restoration of a 24 hour Type 1 A&E at Cheltenham.
  - Council remains opposed to permanent closure or downgrading of Accident and Emergency (A&E) facilities at Cheltenham General Hospital
  - Council is requested to prepare a consultation submission reflecting the observations and direction in this motion. Council can formally agree such submission prior to submission.

## **4. Alternative options considered:**

- 4.1 Not taking this report to Council was dismissed due to the important nature of the issue and possible impact on local health provision. It is important that the Council makes its recommendations clear as a united body.

## 5. Council engagement with Gloucestershire NHS Trust:

- 5.1 On Wednesday the 18 November 2020, representatives from the Gloucestershire NHS Trust presented a summary of the proposed changes and took part in a question and answer session with members. A copy of the presentation is attached in appendix 2.
- 5.2 On Monday the 9 September 2019, representatives from the Gloucestershire NHS Trust attended the Council's Overview & Scrutiny Committee with a presentation followed by a question and answer session with committee members - <https://democracy.cheltenham.gov.uk/documents/g2989/Public%20reports%20pack%2021st-Oct-2019%2018.00%20Overview%20Scrutiny%20Committee.pdf?T=10>
- 5.3 We would like to put on record our sincere thanks to Gloucestershire NHS Trust for their efforts in engaging with Council representatives as part of their stakeholder engagement process.

## 6. Consultation response:

- 6.1 It is recommended that the Council's response to the consultation is based on the following points:
- Centralisation of the acute medical service onto a single site at Gloucestershire Royal Hospital (GRH) will place very significant pressure on bed availability, even with the planned expansion of the acute admissions unit at GRH
  - For any acute medical centralisation to be successful, the Trust must make every effort to transfer elective activity to Cheltenham General Hospital (CGH)
  - Any proposals under Fit for the Future regarding acute medicine must ensure adequate twenty four hour provision of emergency medical care to support the inpatient population at Cheltenham as well as the ED on the east side of the county
  - Support the option of centralising gastroenterology inpatient services at CGH. Co-locating inpatient gastroenterology with a centre for major elective colorectal surgery in Cheltenham will provide an integrated service for patients with bowel disease
  - CGH should be developed to become a Centre of Excellence for Cancer at Cheltenham. CGH is a highly regarded Cancer Centre with facilities to deliver modern radiotherapy and systemic treatments
  - The creation of an elective Centre of Excellence for Cancer with co-located surgery and oncology would also afforded a degree of protection for cancer services in the face of any future pandemic threat
  - Centralisation of emergency general surgery and the acute medical onto a single site at GRH may increase bed pressures in that unit. If centralisation proceeds for emergency general surgery at GRH, it is vital that all elective surgical activity is centralised at CGH, so that elective patients can be treated without disruption from emergency bed pressures or indeed future pandemics
  - Elective major colorectal surgery should be centralised onto a single site at CGH. This centralisation will help to create a large elective Cancer Hospital, with reference to major pelvic surgery
  - As the vast majority of arterial vascular surgery is elective, it would seem entirely reasonable that this should be located at the elective Centre of Excellence at the CGH

## Page 305

- The main interventional radiology hub should be located at CGH, where the majority of non-vascular interventional radiology cases are currently performed
- Not to downgrade CGH as a Type 1 A&E at all (i.e. to an Urgent Treatment Centre) and to present local councils with a long-term plan for the full restoration of a 24 hour Type 1 A&E at Cheltenham
- The Council is opposed to permanent closure or downgrading of Accident and Emergency (A&E) facilities at CGH

<b>Report author:</b>	<b>Contact officer:</b> Darren Knight <b>Tel:</b> 01242 264387 <b>Email:</b> Darren.knight@cheltenham.gov.uk
<b>Appendices:</b>	<b>Appendix 1:</b> One-Gloucestershire-Fit-for-the-Future-Engagement-Booklet-Aug 2019 <b>Appendix 2:</b> Fit for the Future Consultation Presentation
<b>Background information:</b>	<a href="https://www.onegloucestershire.net/yoursay/fit-for-the-future/">https://www.onegloucestershire.net/yoursay/fit-for-the-future/</a> Overview & Scrutiny Committee Minutes from September 2019 - <a href="https://democracy.cheltenham.gov.uk/documents/g2989/Public%20reports%20pack%2021st-Oct-2019%2018.00%20Overview%20Scrutiny%20Committee.pdf?T=10">https://democracy.cheltenham.gov.uk/documents/g2989/Public%20reports%20pack%2021st-Oct-2019%2018.00%20Overview%20Scrutiny%20Committee.pdf?T=10</a>

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	Council not agreeing a united response to the Fit for the Future Consultation	Darren Knight	16/11/2020	4	1	4	Motion agreed in the 16/11/2020 to take a report back to Council before the consultation period ends	Council report prepared for full Council consideration	25/11/2020	Darren Knight	N/A
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – 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)</p> <p><b>Likelihood</b> – 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)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											

# FIT FOR THE FUTURE

Developing urgent and hospital care in Gloucestershire

FOR PUBLIC DISCUSSION





# UNDERSTANDING THE NEED FOR CHANGE

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In Gloucestershire we are aiming high. We want you and your family to have access to the very best healthcare and to be best placed to manage your own health in partnership with us.

We recognise the value you place on local care, but you've also told us that you are happy to travel further to access the very best specialist care and experience the best possible outcomes.

Our expectations of healthcare, the demands on health services and the incredible progress made through science and technology have dramatically changed the environment that we are operating in; this means we need to respond differently.

Whilst these changes present some challenges, they present many more opportunities to improve the ways in which we deliver healthcare – for example, our

two hospital sites, whilst once viewed as a challenge can play their full part in providing outstanding care which we set out in our vision for creating *centres of excellence*.

We look forward to hearing your views – these are exciting times and together we can not only rise to the challenges ahead, but seize the many opportunities to achieve our vision of a healthy county, with exceptional healthcare.

You can find out more about the need for change, by reading the FACT SHEET at [www.onegloucestershire.net](http://www.onegloucestershire.net)

**One Gloucestershire NHS partners**  
(see listing on back cover)





# WHAT IS THIS ENGAGEMENT ABOUT?

This engagement is an opportunity to talk about ways services could be organised so that you can get the very best urgent advice, support and care across the county and benefit from two thriving specialist hospitals in the future in Cheltenham and Gloucester.

It's important to:

- Make it easier, faster and more convenient to get advice, support and services, 7 days a week
- Ensure care is co-ordinated for you from the moment you first make contact with the NHS
- Provide the majority of care in, or near, your home
- Ensure high quality services with the right care, staff skills and equipment in the right place
- Provide outstanding hospital care when you are very unwell.



This **engagement** is an open dialogue. It is an opportunity to discuss ideas and involve people in developing potential solutions to meet future health and care needs.

Through sharing information and exchanging views, the engagement will provide a wealth of feedback to inform future planning. The public and staff will be **consulted** on any significant changes proposed that follow on from this engagement programme.

## WAYS TO GET INVOLVED

**There are a number of ways to get involved and share your views:**

- Complete the survey in this booklet or on-line
- Come to an Information Bus Public Drop-In Event at local venues
- Participate in or observe a participation event (details on page 27)
- Follow us on Twitter - @One\_Glos

All the details, including events information can be found at [www.onegloucestershire.net](http://www.onegloucestershire.net)

# YOU HAVE AN IMPORTANT ROLE IN SHAPING BETTER LOCAL SERVICES

There is a lot to celebrate about the NHS in Gloucestershire, but we want to make things even better.

We can only do this by listening and understanding what matters to you about local services and what you think the best solutions are to tackle the problems we face together.

You can play your part by responding to the questions in this discussion booklet and by talking with us at events across the county (visit [www.onegloucestershire.net](http://www.onegloucestershire.net) and see local and social media for details).

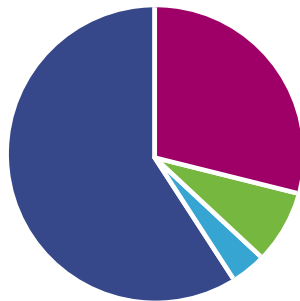
Wherever you live or spend time in the county, it is important to get involved because although we are looking to make it easier for everyone to get help from the NHS, there will always be differences in how care is provided in each area across Gloucestershire, reflecting the needs of local communities and local expertise and circumstances.

As part of developing our local plans for Gloucestershire over the last few years, we have been asking staff, patients, carers, public and community partners, what matters to them about local health and care services.

## Here's a summary of what you have already told us:



**If you need to see a specialist, the most important thing to you would be:**



- 59%** The expertise of the specialist I see
- 29%** The time I have to wait for an appointment
- 8%** The distance I have to travel
- 4%** Having as few appointments as possible

**If you need urgent or emergency care services, the most important thing to you would be:**

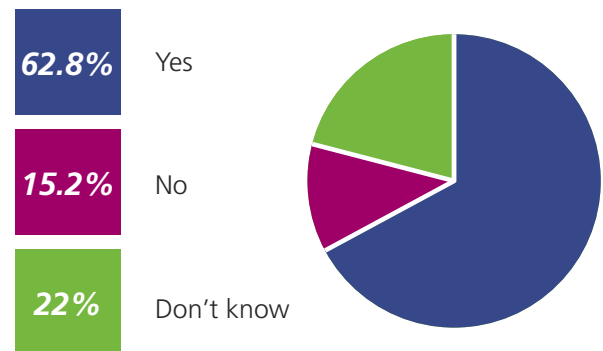


- 35%** **Prompt assessment and decision making**  
Prompt assessment and decision making about my treatment and onward care
- 33%** **7 day access to services**  
Ability to access services 7 days a week
- 14%** **Centres/services staffed by specialists**  
Centres/services staffed by specialists in dealing with my illness or injury
- 10%** **Joined up services**  
Services that are joined up and can access information about my health and care needs
- 8%** **Distance to travel**  
The distance I have to travel

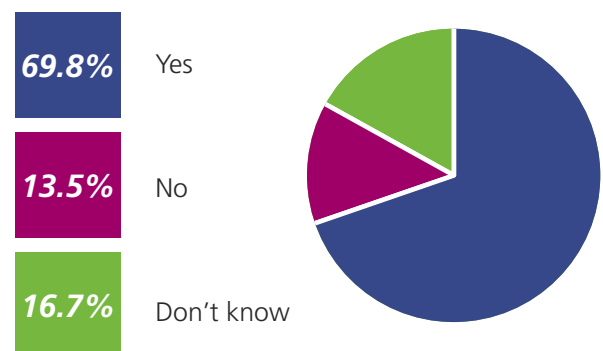
**Developing our local NHS Long Term Plan**

In Spring 2019, we asked you what you thought about our exciting 10 year vision for the NHS.

**Do you think we have set out a clear way to develop advice, support and service locally?**



**Do you think we have identified the right priorities for developing advice, support and services?**



We have listened to what people have told us and this has helped us to develop some early ideas over the last few months. We now want to test these with you. We hope you will take the opportunity to get involved, comment on our ideas and share your own ideas with us.

# URGENT ADVICE, ASSESSMENT AND TREATMENT SERVICES

## How services are currently organised

If you need urgent advice or care for an illness or injury today, you can get help through a range of services in Gloucestershire:

- Community pharmacies – there are 113 pharmacies in the county on the high street and in supermarkets. Many are open into the evening and at weekends
- On-line and telephone advice – there are a number of national and local NHS websites and Apps and the 24/7 NHS 111 telephone service which local people also use to contact the Gloucestershire Out of Hours GP service
- GP surgeries (for illness). There are currently 74 GP practices across Gloucestershire and they are already taking positive steps to plan for the future:
  - o GP surgeries are working together where you live to offer more appointments in the daytime, evening and weekends – an additional 100,000 this year across our county
  - o Locally, many will be offering on-line GP consultations – with some surgeries offering the service this year
  - o Other health experts are now working in, and with, local GP surgeries, such as clinical pharmacists, physiotherapists, paramedics and mental health workers. This is freeing up GP time to care for you when you really need it



*\*We are also going to talk with local people about the next stage of development of our proposals for the new hospital for the Forest of Dean*

- Community health and social care teams providing care in your own home, including the community rapid response service which offers urgent support
- There are 9 Community Minor Injury and Illness Units (MIIUs) across the county:
  - o 7 of these MIIUs are based at Community Hospitals in Cinderford (Dilke\*), Cirencester, Dursley (Vale), Lydney\*, North Cotswolds (Moreton-in-Marsh), Stroud and Tewkesbury
  - o There is a Minor Injury Unit at Tetbury Hospital (run by an independent Trust) and a Minor Injury Unit at Winchcombe Medical Centre (GP Surgery) complementing the illness services provided there
- There are also 2 Emergency Departments (A&E) in Cheltenham and Gloucester. The doctors and nurses there provide care for you if you have a life threatening illness or serious injury. At the moment, people with less serious (including minor) illness and injury can also 'walk in' to these services.

## You have asked us to explain the difference between urgent and emergency care.

- **Urgent care** – an illness or injury that requires urgent attention i.e. generally needs to be assessed and dealt with on the day, but is not a life threatening situation.
- **Emergency care** – is when you have a life or limb threatening illness or injury which requires rapid and intensive treatment.

# WHAT WE NEED TO CONSIDER CHANGING

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## Improving urgent care services in local communities

Despite our best efforts, more and more of us are going to the two Emergency Departments (A&E) with minor illnesses and injuries which could be dealt with just as well elsewhere; and often closer to home.

It also means that if you have a more serious condition, you can experience delays that could be avoided if these specialist emergency care services were preserved for people who are very sick.

We think there are ways to make it easier, faster and more convenient for you to get urgent advice, support and services, 7 days a week and ensure care is co-ordinated for you from the moment you first make contact with the NHS.

It's important you always get high quality services with the right care, staff skills and equipment in the right place.

### **Here is what you need to know to help us**

We all want to know that good quality advice and care is available when we or a loved one needs it, that we can get a GP surgery appointment when we need one; that there are reliable community services, equipment and facilities to support our day to day health needs and the very best hospital care when we are very unwell.

We want to make sure that when you need to see a doctor or other health professional quickly, you can easily find out where to go and get an appointment.

In Gloucestershire, we currently have a range of services (see page 6). However, there are challenges with these services, particularly with urgent care (when you need medical help on the same day, but it's not a life threatening emergency).

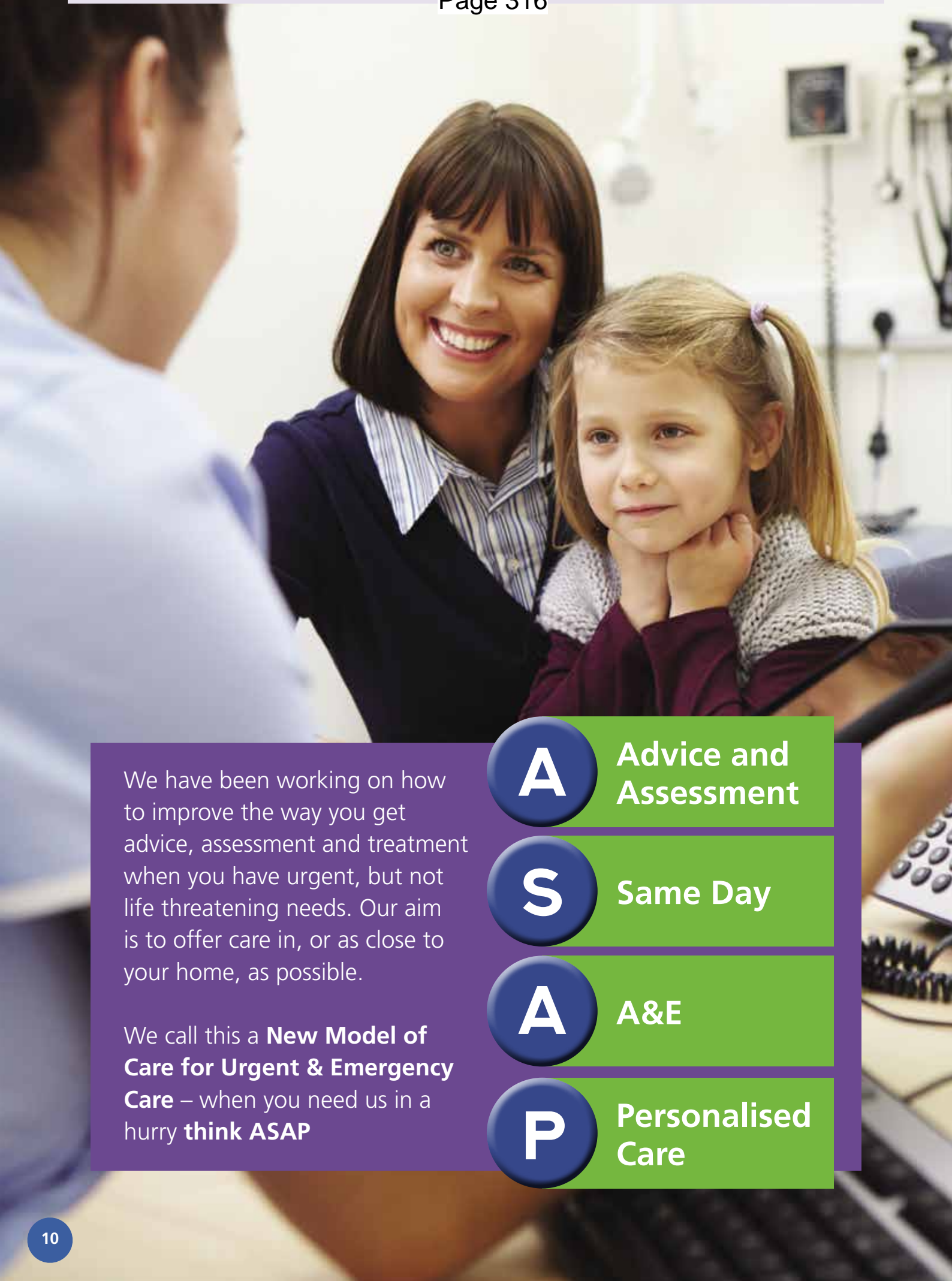
### **For example:**

- You have told us that when you are unwell, you do not always know when to visit the pharmacy, call your GP surgery or when to go to hospital
- We have also heard that because there are a range of different opening times at community minor injury and illness units across the county it can be confusing to know which service to use and when



- The number of people going to community minor illness and injury units in Gloucestershire can be very low at times, particularly in the evenings. In some places that can be between 1 and 2 people an hour
- Tests such as x-rays and scans are only available when specialist staff are available, which isn't all the time, everywhere
- Around 1 in 3 visits to the Emergency Departments (A&E) at Cheltenham and Gloucester are for injuries and problems that could be treated safely by a different NHS service
- People who choose to attend the Emergency Departments (A&E) for treatment for minor illnesses and injuries find they have to wait longer as their needs are less critical than seriously ill emergency patients.





We have been working on how to improve the way you get advice, assessment and treatment when you have urgent, but not life threatening needs. Our aim is to offer care in, or as close to your home, as possible.

We call this a **New Model of Care for Urgent & Emergency Care** – when you need us in a hurry **think ASAP**

**A****Advice and Assessment****S****Same Day****A****A&E****P****Personalised Care**



## A Advice and Assessment:

You would be able to get advice and your needs assessed in three ways:

- Going on-line (e.g. [www.nhs.uk](http://www.nhs.uk) or the NHS App)
- Making a phone call to:
  - your GP surgery
  - \*NHS 111 - for advice when your GP surgery is closed or you have a non-life threatening injury
  - 999 – if it's a life threatening emergency

*\* We are introducing a new service for healthcare professionals and patients through NHS 111.*

*Staffed by doctors and nurses, it will give information on looking after yourself when you can, provide health advice and will be able to book an appointment with a local service at a time that is convenient for you.*

- Visiting a service e.g. a local pharmacy (if you've got a minor ailment or need advice on which NHS service to use) or a GP surgery or another local urgent care service to make an appointment.

On an average day in Gloucestershire, around 5,000 people would need to find advice and get assessed (excluding pharmacy).

## S Same Day:

We would assess you and advise you on what to do next, including if looking after yourself with the right care advice is an option. If you need same day care, we would book you an appointment or arrange a home visit e.g. a booked appointment at your GP surgery or an urgent care service (usually within a 30 minute drive from where you live), a home

visit from a Paramedic or Community Team or we may advise you to attend a Hospital Assessment Unit.

On an average day in Gloucestershire, around 4,000 people would need same day care (excluding pharmacy), of which around 3,500 would have an appointment at their GP surgery.

## A A&E:

A&E would be there for you if you had a life and limb threatening medical emergency.

Around 100 people a day would have a life and limb threatening emergency and would need to access an Emergency Department (A&E).

## P Personalised Care:

Our priority would be to ensure you receive the right care for your urgent medical needs. More services would be booked on the day to reduce the need to walk in and wait. We would join up your care records and people with long term health conditions e.g. diabetes or lung disease would have care plans with more support to look after their own health.

To find out what **ASAP** could mean for you in the future, take a look at the 'case studies' at [www.onegloucestershire.net](http://www.onegloucestershire.net)

We have produced a Fact Sheet, also available at [www.onegloucestershire.net](http://www.onegloucestershire.net), which provides more information about the need to change how urgent care services are organised locally over the next few years.

# WHAT MATTERS TO YOU?



Your experiences of local services are important to us. We want to hear what you have to say about our ideas and we look forward to hearing your own.

Most people who need urgent help with an **illness** (not life threatening emergencies) can get the right advice and care in local pharmacies or GP surgeries, including in the evenings and weekends.

However, healthcare professionals in your area will need to consider what other same day urgent illness services (not life threatening emergencies) are needed in the community, including in Cheltenham and Gloucester.

There are big opportunities to improve the care we offer for minor **injuries**, making services more consistent and making it easier to get the right treatment, first time.

Your minor injury service could be delivered in a local hospital or in a GP surgery. We would also like to give you the opportunity to book an appointment in advance through NHS 111, rather than having to turn up and wait to be seen.

80% of injuries seen at our current Minor Injury and Illness Units (MIUs) do not require x-ray. This suggests that these patients could safely be seen at a centre which doesn't have x-ray facilities.

With your help, we need to consider the best way of providing **diagnostic services**, like x-ray. We want to provide services as close to home as possible, but equally we want you to get an outstanding service, every time. Things to look at include availability of staff with the right skills, access to the best equipment and facilities and the money available.



All of this means, we need to consider with your help what, and from where, these services are provided - in our two big urban centres and in other places across the county.

In terms of 'where', we need to think about how many places and what kind of places will deliver injury and illness services.

Help us to develop local solutions that work for you.

When looking at how services could be organised we have to take into account things (criteria) such as **quality, achievability, affordability and sustainability**.

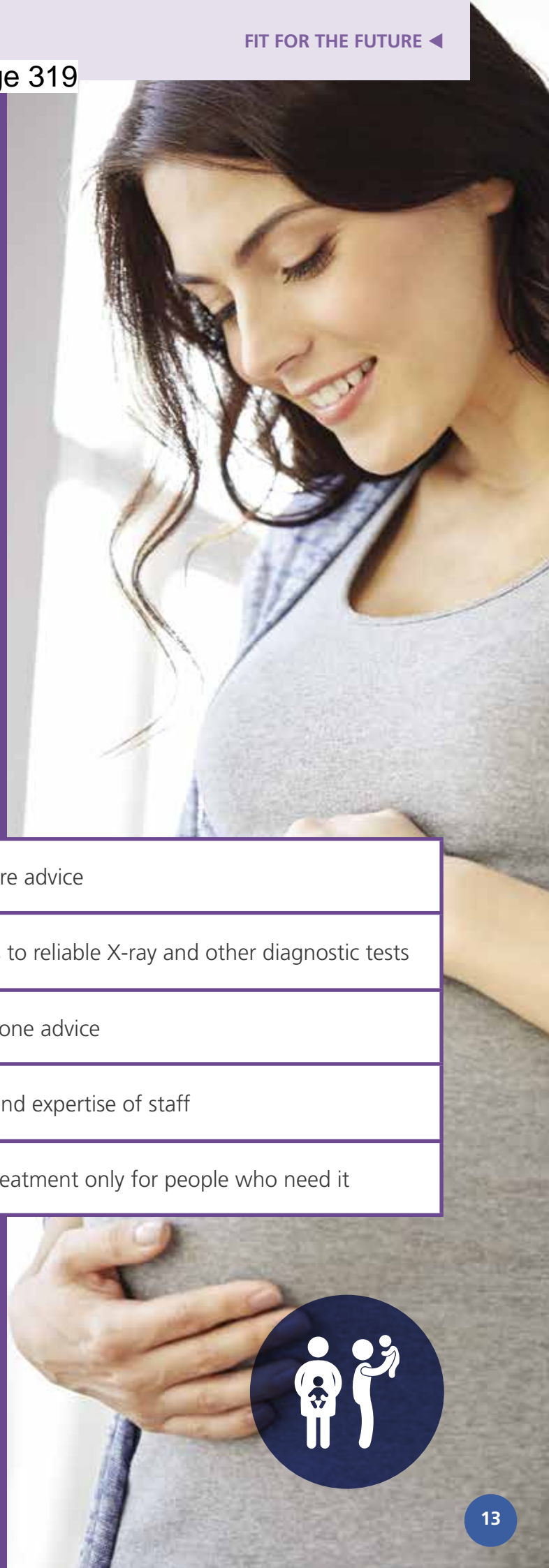
What other important things do you think we should consider when organising community urgent advice, assessment and treatment services?

Here is a reminder of some of the things we think are important:

Encouraging healthier lifestyles	Self care advice
Booked same day appointments for urgent treatment	Access to reliable X-ray and other diagnostic tests
Online advice	Telephone advice
30 minutes' drive from a centre (for the majority of people)	Skills and expertise of staff
Reduced waiting times	A&E treatment only for people who need it

If we are going to come up with solutions to ensure that everyone can access the very best same day community urgent care advice, assessment and treatment, we need to know what matters to you and people across the area.

**To share your views, please turn to Page 23**



# IMPROVING SPECIALIST HOSPITAL SERVICES AND DEVELOPING CENTRES OF EXCELLENCE

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There are huge opportunities to develop services at the two large hospitals - Cheltenham General Hospital (CGH) and Gloucestershire Royal Hospital, Gloucester (GRH).

These hospitals provide more specialist care and treatment that require the skills and facilities that can only be provided in a hospital setting.

The hospitals recently received a 'Good' rating from the Care Quality Commission. They are well placed to deliver their vision of Best Care for Everyone. To support this, one idea is the development of the two main hospital sites into what we are calling *centres of excellence*.

There is an exciting opportunity to turn our two sites into thriving hospitals that each have their own distinct identity and role and are organised to ensure you receive the very best care delivering the best outcomes for your health.

## How specialist hospital services are currently organised

We have already achieved some of this vision, bringing together services like stroke, children's care and oncology (cancer care) onto one or other of the two sites.

Our experience in these areas has shown us that where we bring scarce specialist staff and equipment together, we are able to deliver care as good as the best in the country.

Where we provide services on both sites, such as emergency general surgery, this duplication is leading to challenges, for example, it means we have to spread scarce staff and other specialist resources across two sites which can impact on the care and quality of treatment you receive.

It also means that clinical staff, like doctors, need to spend time travelling between the hospital sites; time which could be better spent caring for you and working alongside fellow expert staff.



Business as usual in Cheltenham General and Gloucestershire Royal Hospitals is no longer enough to meet the challenges we face and those that are coming our way, nor will it allow us to make the most of the exciting opportunities waiting to be seized.

We are determined to rise to this challenge because, after all, rising demand and expectations come from things that are good for us all: people living longer and enjoying a higher quality of life, even in the face of personal health issues.

Healthcare is also coming on leaps and bounds through advances in medical science, innovation and technology and we want to take full advantage and be at the leading edge of these new possibilities.

So, this is an exciting time for our hospitals as we embark on an ambitious new journey that builds on our recent successes and gives us every opportunity to provide the best possible care for you, the people you care about and the next generation of patients.

We are lucky in Gloucestershire in that we have two large hospital sites that offer us a fantastic chance to introduce new ways of delivering future-fit specialist hospital care, which could be brought to life through our vision for *centres of excellence*.

## A vision for *centres of excellence*

Imagine a single, ground-breaking specialist hospital for Gloucestershire, operating out of two campuses one in Cheltenham and one in Gloucester. Imagine knowing that all of the specialist care and expertise you need will be right on hand: whether you're coming to us for planned surgery, or in an emergency situation.

To achieve this vision, we need to change the way we work and organise our services. This will not only mean we can use our scarce resources, such as specialist staff and equipment more effectively, but improve the safety, experience and health outcomes for you.

We also know that developing services in this way is more attractive to staff and are confident it would help us recruit and retain the very best.

There is an opportunity to consider a greater separation between emergency care and planned care i.e. care that is scheduled in advance, for example cancer treatment or hip replacement.

Across the UK and the world, doctors recognise that an element of separation between planned and emergency care services can improve care for everyone.

### Separating facilities for emergency care

would ensure that, if you have a life or limb threatening emergency, the right facilities and staff would always be available to give you the best possible chance of survival and recovery.

Good emergency care involves a large number of different specialist teams in a hospital, and all of these experts need to be on hand to get the right treatment started, whatever time of day or night.

Getting it right would improve your chances of survival and recovery, reduce the amount of time you have to spend in hospital and sometimes even avoid a hospital stay altogether.

### Separating facilities for planned care

would reduce the number of operations that get cancelled when beds or operating theatres are needed for the most unwell patients who arrive in the Emergency Department (A&E) and need urgent operations or treatment.

Working this way would also reduce the risk of hospital acquired infections, for example because you can be screened for infection in advance of your surgery date, and because you are less likely to be moved between wards to make way for emergency patients.

To meet your needs and those of everyone across Gloucestershire in the future, more services and expertise could be brought together for the benefit of the whole county.

### This could include:

- Creating a *centre of excellence* for emergency care and a
- *centre of excellence* for planned care.

For example, there could be a campus on the Cheltenham General Hospital site that is a thriving hub for world-class treatment, specialising in offering innovative, effective and efficient planned care.

Meanwhile, on the Gloucestershire Royal campus, we could concentrate on delivering excellent emergency care.

Both thriving hospital sites would have their own strong identities and benefit from the very best expertise and facilities to reduce the risks to you and maximise chances of survival and good recovery. Two campuses, one vision and one team providing outstanding specialist hospital care.

Outpatient and day case appointments would continue to be available at both sites and in community hospitals, as well as 24 hour access to urgent care services.

This engagement is an opportunity to test out these ideas with you and to listen to your own ideas and views.

If we were to create *centres of excellence*, the benefits would include:

- Improving health outcomes - ensuring you are treated by the right specialist team with timely access to the support you need
- Reducing waiting times and fewer cancelled operations - leading to a more reliable and positive experience for you and your family
- Ensuring timely assessment and decision making from senior professionals when you arrive at hospital - leading to prompt diagnosis, treatment and timely recovery
- Ensuring safe and consistent staffing levels, including senior doctors – 24 hours a day – leading to safer care and shorter hospital stays
- Supporting joint working between care professionals; including links to related services, facilities and equipment to avoid the need for multiple visits and hospital stays
- Ensuring specialist staff see enough patients to maintain their skills so they can provide the very best care and outcomes for you

- Creating flagship centres for research, training and learning - attracting and keeping the best staff in Gloucestershire and ensuring you have access to ground breaking treatments.

During the last two years, we have been piloting changes to the way Trauma and Orthopaedic and Gastroenterology inpatient services are provided across our two large hospitals. Later this year, we propose to talk with you about whether these changes should become permanent.

You can read more about the ideas for *centres of excellence* and find out more about the pilot schemes in the FACT SHEET at [www.onegloucestershire.net](http://www.onegloucestershire.net)







## Ideas for the next two to three years

The overall *centres of excellence* vision described above could take up to ten years to achieve. It is dependent on a number of 'building blocks' such as having the right buildings, equipment, technology, staff and money in place.

Today, we would like to hear your views on potential solutions for accident, emergency and assessment services (including A&E), general surgery and image guided surgery.

### Accident, Emergency and Assessment Services (including A&E)

Alongside exploring ideas to make sure everyone can access consistent community same day urgent care and reflecting on our vision for our two acute hospital sites, we would like to involve you in exploring ideas for how we provide hospital emergency care services in the future.

### How services are currently organised

Currently in Gloucestershire, there is a full Emergency Department (A&E) service at Gloucestershire Royal Hospital (GRH) open 7 days a week, 24 hours a day and at Cheltenham General Hospital (CGH) 7 days a week (8am-8pm).

Between 8pm and 8am in Cheltenham, emergency ambulances are sent to GRH's Emergency Department. A nurse led walk in service provided by Emergency Care Practitioners is available at CGH overnight and if you have previously been seen by your GP, you can be referred directly to an assessment unit to see a doctor.

If you are assessed as not needing life-saving emergency care, paramedics also have the ability to treat you at home, or to refer you directly to this assessment unit within defined protocols (written agreements between health services).



The assessment unit in GRH is open 7 days a week, 8am – 9pm, and there is also an acute medical unit which is open 24/7. More than three quarters of patients who arrive with us as an emergency will go to an acute assessment unit and around three quarters of patients seen in these assessment units will be able to go home within 1 to 2 days.

GRH is also currently a specialist centre for related services such as stroke care, high risk maternity care, emergency care for children and is a designated Trauma Unit.

Both hospitals also provide a range of other 'walk in' same day urgent care services (not life threatening emergencies).

### **What we need to consider changing**

As described in ASAP on pages 10 & 11, Emergency Department (A&E) services are part of a wider network of urgent care services.

We see both Cheltenham General and Gloucestershire Royal hospitals continuing to provide a range of same day, walk in, urgent care services 24 hours a day, 7 days a week for local patients.

We are committed to local access to services, where it can be delivered without compromising on the quality of care you receive, your experience, health outcomes and safety.

However, if you have a life and limb threatening illness or injury that needs a 999 response, evidence suggests you have the best chances of survival and good recovery if you receive treatment in a centre with the right staff expertise, facilities and equipment.

This engagement is an opportunity to discuss ideas and share views on the range of services provided at the two hospitals in the future.

This is not just about Emergency Departments (A&E), but also about the vital diagnostic services and assessment units that work alongside them to offer the full range of expertise that is needed to ensure you are on the right treatment path from the outset and go on to experience the very best outcomes.

On average, just under 100 people each day need the very specialist life and limb saving services of the most specialist emergency departments and assessment services.



## General Surgery

Although the words 'general surgery' might suggest this is a catch-all for all types of surgery performed in a hospital, general surgery is actually a term we use for the surgical management of conditions relating to the abdomen, specifically the digestive system or gastrointestinal (GI) system.

In hospital care, we have specialists who look after the 'upper' part of the gut or the 'lower' part of the gut - also known as Upper GI and Lower GI (Colorectal). There are some instances of cross over between the two specialist teams.

### How services are currently organised

General surgery services are predominantly based in our main (acute) hospitals – Cheltenham General (CGH) and Gloucestershire Royal (GRH). There are also some services provided in the community hospitals. All of these services are currently provided by Gloucestershire Hospitals NHS Foundation Trust. The same staff provide emergency and planned care, although the staff are separated into four teams (two teams at each site), providing either emergency or planned care at any one time. Many of the staff provide care at both hospitals.

Currently the way in which general surgery is provided across both hospital sites does not meet national standards, and is falling behind the best centres nationally. This has an impact on your care, the well-being of our staff and our ability to attract and keep the very best staff.

### What we need to consider changing

Our priority is to deliver care that meets national standards and is comparable with the best centres in the country.

We are considering whether to centralise emergency general surgery on one site. If we do this, our doctors believe a greater number

of patients who are unwell would be able to see the right specialist first time, 7 days a week and receive prompt senior assessment, treatment and surgery.

In simple terms, this means that those patients presenting with symptoms and conditions affecting their upper gastrointestinal tract, such as oesophagus, stomach and gall bladder will see an Upper GI specialist surgeon and those presenting with problems of the lower bowel, would access a specialist colorectal surgeon.

Rapid access to the right specialist not only leads to better care, but can significantly reduce the length of your hospital stay.

We have also been thinking about the best way to organise planned general surgery (care that can be planned in advance) in the future to improve outcomes, reduce waiting times, ensure fewer cancelled operations and improve your experience.

There are several possible variations for how we could organise our services in future. For example, we could separate day surgery from longer planned surgery, and there are variations for the ways we could arrange our services across the two sites. We look forward to hearing your ideas about how we could develop services with you. You can find out more about General Surgery by reading the FACT SHEET at [www.onegloucestershire.net](http://www.onegloucestershire.net)

## Image guided interventional surgery hub

Image guided surgery is when doctors use interventional radiology to perform surgery and avoids the need for more invasive, open surgery. This reduces the risk to you and can reduce the amount of time you need to stay in hospital and your recovery time.

Interventional radiology means using real time images of the inside of the body,

captured by x-ray, MRI, ultrasound scans and CT scans to diagnose or treat problems with blood vessels.

Image guided surgery can also be used if you need emergency care, for example if you have internal bleeding as a result of an injury.

One of the benefits of image guided surgery supported by interventional radiology is that when you need an operation the surgeon does not need to make a large cut and instead can perform your surgery via a small 'keyhole', which means you can heal and recover more quickly.

Cardiology (heart medicine and surgery), vascular surgery (surgical sub-specialty of arteries, veins and the circulatory system) and interventional radiology use similar equipment, similarly trained support staff and have similar processes for caring for you following a procedure.

These services also regularly need specialist input from each other. In many cases these services are treating the same group of patients.

### How Image guided services are currently organised

At the moment interventional radiology and cardiology services are split across both hospital sites; whilst vascular surgery is centralised on the Cheltenham General Hospital site. This does not allow us to treat as many patients using image guided surgery as we would like.

Some people who need image guided surgery have to travel to hospitals outside of the county, including some emergency situations e.g. to Bristol, Oxford and Birmingham. We would like to treat more people locally in the future.

### What we need to consider changing

One idea is to bring together the staff and resources we have and establish a hub for

image guided interventional surgery on one site, with vascular surgery at the same site.

This would mean investing in new technology and equipment for our hospital to deliver some of the most cutting edge services in the NHS today. It is an innovative approach that would make Gloucestershire amongst the best NHS services in the country for providing a full range of interventional radiology.

We believe it would bring the following benefits:

- Allow us to provide 24 hours a day, 7 days a week coronary angioplasty, which is a treatment for certain types of heart attack. Currently, around 250 Gloucestershire residents a year travel to Oxford or Bristol for this care
- Enable us to increase the range and number of interventional radiology procedures we offer – ensuring you are able to access the most effective treatment for both emergency and planned operations
- Reduce the likelihood of you needing to be transferred between hospital sites, or to a hospital outside of the county
- Help us to attract and keep some of the very best staff in the country
- Reduce the duplication of equipment and enable investment in new cutting edge technology in our image guided interventional radiology hub.

We have the opportunity to create one of the best district general hospital interventional radiology services in the country.

If our ideas for an image guided surgery hub are achieved, our ambition is to be a British Society of Interventional Radiology 'Exemplar Site' within two years. This would not only increase the chances of a better outcome for your health, but also reduce the likelihood of you needing to travel further afield for care.

# WHAT MATTERS TO YOU?



Local people have told us that it is a good idea to bring some specialist services together and the most important thing when they need to see a specialist is the skills and expertise of the staff looking after them.

When looking at how we can organise services we have to take into account things such as **quality, achievability, affordability and sustainability**.

What other important things do you think we should consider when organising specialist hospital services? Here is a reminder of some of the things we think are important:

Encourage Healthy Lifestyles	Quality of outcomes from treatment
Safe care	Recruiting and keeping staff
Timely access to services	Value for money
Easy transfer between Cheltenham General and Gloucestershire Royal Hospitals sites	Gloucestershire recognised as amongst the best in the country
Skills and expertise of staff	State of the art equipment
Good patient experience	Reduced waiting times

If we are going to come up with good solutions to ensure that everyone can access improved specialist hospital services (including Accident, Emergency and Assessment Services, General Surgery and Image Guided Surgery) in the future, we need to know what matters to you and people across the area.



To share your views about specialist hospital services, please turn to Page 24

## What matters to you? – Freepost and online Survey

### Improving urgent care services in local communities

After reading pages 6-13, please share your views below:

In your view, what are the most important things to be considered in developing services to ensure everyone can access consistent urgent advice, assessment and treatment?

---

What do you think about our ideas for urgent advice, assessment and treatment services **ASAP**?

---

What other ideas do you have to help us? Do you have a solution to the challenge of developing services to ensure everyone can access consistent urgent advice, assessment and treatment services – if so what is it?

---

If the way you receive services changes, what are the most important things to be considered to reduce any negative impact on you or people you know?

---

Anything else you would like us to hear in relation to making sure everyone can access consistent urgent advice, assessment and treatment services?

---

Tear along the perforation on each page of the survey

### Improving specialist hospital services and developing '*centres of excellence*'

After reading pages 14-22, please share your views below:

In your view, what are the most important things to be considered in improving specialist hospital services (Accident, Emergency and Assessment Services, General Surgery and Image Guided Interventional Surgery) and developing *centres of excellence*?

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Do you have ideas about how to improve specialist hospital services (Accident, Emergency and Assessment Services, General Surgery and Image Guided Interventional Surgery) and developing *centres of excellence* – if so what are they?

---

If the way you receive services changes, what are the most important things to be considered to reduce any negative impact on you or people you know?

---

Anything else you would like us to hear from you in relation to improving specialist hospital services (Accident, Emergency and Assessment Services, General Surgery and Image Guided Interventional Surgery) and developing *centres of excellence*?

---

Tear along the perforation on each page of the survey

# ABOUT YOU

Completing the “About You” section is optional, but the information you give us helps us to ensure that we hear from people with a wide range of experiences and circumstances. Your support with this is really appreciated.

**What is the first part of your postcode? eg. GL1, GL20**

**Which age group are you?**

- |                                   |                                |  |
|-----------------------------------|--------------------------------|--|
| <input type="checkbox"/> Under 18 | <input type="checkbox"/> 36-45 | <input type="checkbox"/> 66-75             |
| <input type="checkbox"/> 18-25    | <input type="checkbox"/> 46-55 | <input type="checkbox"/> Over 75           |
| <input type="checkbox"/> 26-35    | <input type="checkbox"/> 56-65 | <input type="checkbox"/> Prefer not to say |

**Are you:**

- A health or social care professional
- A community partner/member of the public
- Prefer not to say

**Do you consider yourself to have a disability? (Tick all that apply)**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> No                    | <input type="checkbox"/> Learning difficulties | <input type="checkbox"/> Physical disability |
| <input type="checkbox"/> Mental health problem | <input type="checkbox"/> Hearing impairment    | <input type="checkbox"/> Prefer not to say   |
| <input type="checkbox"/> Visual Impairment     | <input type="checkbox"/> Long term condition   |  |

**Do you look after, or give any help or support to family members, friends, neighbours or others because of either a long term physical or mental ill health need or problems related to old age? Please do not count anything you do as part of your paid employment.**

- Yes     No     Prefer not to say

Tear along the perforation on each page of the survey



**Which best describes your ethnicity?**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> White British          | <input type="checkbox"/> Black or Black British | <input type="checkbox"/> Prefer not to say |
| <input type="checkbox"/> White Other            | <input type="checkbox"/> Chinese                |  |
| <input type="checkbox"/> Asian or Asian British | <input type="checkbox"/> Mixed                  |  |

**Which, if any, of the following best describes your religion or belief?**

- |  |                                 |  |
|--|---------------------------------|--|
| <input type="checkbox"/> No religion   | <input type="checkbox"/> Hindu  | <input type="checkbox"/> Other             |
| <input type="checkbox"/> Buddhist  | <input type="checkbox"/> Jewish | <input type="checkbox"/> Prefer not to say |
| <input type="checkbox"/> Christian<br>(including Church of England, Catholic, Methodist and other denominations) | <input type="checkbox"/> Muslim |  |
|  | <input type="checkbox"/> Sikh   |  |

**Are you:**

- |                                 |  |
|---------------------------------|--|
| <input type="checkbox"/> Male   | <input type="checkbox"/> Transgender       |
| <input type="checkbox"/> Female | <input type="checkbox"/> Prefer not to say |

**Do you identify with your gender as registered at birth?**

- Yes     No     Prefer not to say

**Which of the following best describes how you think of yourself?**

- |   |  |
|---|--|
| <input type="checkbox"/> Heterosexual or straight | <input type="checkbox"/> Other             |
| <input type="checkbox"/> Gay or lesbian           | <input type="checkbox"/> Prefer not to say |
| <input type="checkbox"/> Bisexual                 |  |

**Are you currently pregnant or have given birth in the last year?**

- |                              |  |
|------------------------------|--|
| <input type="checkbox"/> Yes | <input type="checkbox"/> Not applicable    |
| <input type="checkbox"/> No  | <input type="checkbox"/> Prefer not to say |

**Thank you for taking the time to tell us what matters to you. Your feedback is important to us.**  
 Please return your completed questionnaire to the freepost address (no stamp required) by 14 October 2019.

**FREEPOST**  
**RRYY-KSGT-AGBR**  
 Fit for the Future  
 NHS Gloucestershire Clinical Commissioning Group,  
 5220 Valiant Court,  
 Gloucester Business Park,  
 Brockworth, GL3 4FE

Tear along the perforation on each page of the survey



## Feedback, what next?

Views on local services will continue to be welcomed throughout the period of engagement. However, it would be helpful to have specific survey feedback by **Monday 14 October 2019**. This feedback will then be read, put into themes and included in an Outcome of Engagement Report.

This Report will be made publically available and will form part of evidence considered by an independent Citizens' Jury, made up of local people. The Citizens' Jury will be focusing on the subject of improving specialist hospital services (Accident, Emergency and Assessment Services, General Surgery and Image Guided Surgery) and developing *centres of excellence*.

Locality Development Workshops, attended by local people and local clinicians will consider the subject of ensuring everyone can access community 'same day' urgent care services.

The Citizens' Jury and Localities recommendations will be considered by NHS Boards and you would be consulted as required about the NHS Boards conclusions about the possible changes.

## Would you like to be further involved?

As well as telling us your views in the ways set out on Page 3, there are a number of other ways you could get more involved:

### **Locality Development Workshops: Making sure everyone can access community 'same day' urgent care services – Autumn 2019**

If you would be interested in participating in a Locality Workshop (Cheltenham, Cotswolds, Forest of Dean, Gloucester, Stroud and Berkeley Vale, Tewkesbury) please register your interest by emailing [GLCCG.participation@nhs.net](mailto:GLCCG.participation@nhs.net) and request an expression of interest form to complete. Places are available for local residents at each workshop. Deadline for expressions of interest to participate in a Locality Workshop: **6 September 2019**.

### **Engagement Hearing – date and venue to be confirmed (see website)**

The Hearing is an opportunity to present your ideas to a panel of clinicians and other health professionals who have to develop local solutions.

Hearings are independently chaired and are a public opportunity for you to share your thoughts and ideas about what you think should be taken into account, what you think is essential in arriving at the best solution, plus any new ideas or alternative proposals you may have. Hearings are live events held in public, live streamed to the internet, and recorded. They are an opportunity for good quality discussion and debate.

If you would like to attend you will need to book a timeslot; you will have a maximum of 30 minutes to put your point of view across and then there will be an opportunity to discuss what you have shared. If you want to book a timeslot (and submit information beforehand/ this is optional) you can do so by sending an email to [GLCCG.participation@nhs.net](mailto:GLCCG.participation@nhs.net) telling us your name, organisation or group (if applicable), daytime phone number and email address **by 30 September 2019**.

### **Citizens' Jury – Improving specialist hospital services and developing centres of excellence – dates and venue to be confirmed (see website)**

You can apply to be a member of the Citizens' Jury between 1 and 28 October 2019 through [www.citizensjuries.org](http://www.citizensjuries.org)

If you would be interested in observing the Citizens' Jury (25 places are available for observers each day) please email [GLCCG.participation@nhs.net](mailto:GLCCG.participation@nhs.net) **by 28 October 2019** to register your interest.

### **Solutions Appraisal Exercise – dates and venue to be confirmed (see website)**

The Appraisal Exercise will be completed by clinicians and other health professionals, together with some members of the public who have been involved in developing the proposed solutions to be appraised. If you would be interested in observing the Appraisal process (25 places are available for observers) please register your interest by emailing [GLCCG.participation@nhs.net](mailto:GLCCG.participation@nhs.net)

Deadline for expressions of interest to observe the Appraisal Exercise: **28 October 2019**.

**One Gloucestershire** is a partnership between the county's NHS and care organisations to help keep people healthy, support active communities and ensure high quality, joined up care when needed.

The NHS partners of One Gloucestershire are:

- NHS Gloucestershire Clinical Commissioning Group (CCG)
- Primary care (GP) providers
- Gloucestershire Care Services NHS Trust
- 2gether NHS Foundation Trust
- Gloucestershire Hospitals NHS Foundation Trust
- South Western Ambulance Service NHS Foundation Trust

We are grateful to members of the Healthwatch Gloucestershire Readers Panel for contributing to the development of this discussion booklet.

For any enquiries about local participation please email: [GLCCG.participation@nhs.net](mailto:GLCCG.participation@nhs.net)

Other useful information:

**[www.onegloucestershire.net](http://www.onegloucestershire.net)**

 **@One\_Glos**

To discuss receiving this information in large print or Braille please ring: **0800 0151 548**

To discuss receiving this information in other formats please contact:

এই তথ্য অন্য ফর্মাটে পেতে আলোচনার জন্য দয়া করে যোগাযোগ করুন

如需以其他格式接收此信息，请联系

V případě, že potřebujete obdržet tuto informaci v jiném formátu, kontaktujte prosím

આ માહિતી બીજા ફોર્મેટમાં મળવાની ચર્ચા કરવામાટે કૃપાકરી સંપર્ક કરો

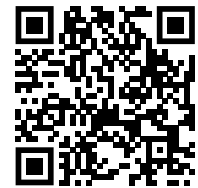
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**FREEPOST RRYY-KSGT-AGBR**

Fit for the Future, Sanger House, 5220 Valiant Court,  
Gloucester Business Park, Gloucester GL3 4FE



**Your say**  
Fit for the future

Publication date:  
August 2019

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## Fit for the Future Consultation



**Cheltenham Borough Council**  
**18<sup>th</sup> November 2020**

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## What is Fit for the Future?

**Fit for the Future** is part of the One Gloucestershire vision focusing on the medium and long term future of specialist hospital services at Cheltenham General Hospital (CGH) and Gloucestershire Royal Hospital (GRH).

The aim is to provide **world class, leading edge, specialist hospital care** for patients comparable to the best in England.

We want to strike the right, but often difficult, balance between having **two world class 'centres of excellence'** at CGH and GRH and **providing local access to services**.

**Feedback from earlier Engagement...** Support to continue to develop a 'centres of excellence' approach, reflecting how some services are already concentrated in one place e.g. oncology (cancer care) in Cheltenham and children's services in Gloucester.

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## The need for change

**Challenges**



- You **don't always see the right specialist** e.g. senior doctor to meet needs 24/7
- Too many operations are being cancelled** that don't need to be
- We don't have the **staff to stretch across two hospital sites**.

**Opportunities**

- With the medium to longer term strategy defined, we can make decisions on how to **make best use of resources** e.g. workforce recruitment and training, use of our estate, specialist high tech equipment etc.
- Joint working between specialist teams could be improved** e.g. how doctors, nurses, therapists, scientists and support functions are located work together.

**If we don't continue to develop our hospital services, we think:**

- We **could fall behind other hospitals** i.e. lose services, funding or our training status for some specialities and fail to recruit or keep staff
- You would have to **travel further** for some specialist care (out of county)
- There would continue to be **disruption to planned care services** at times of high demand.

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## Vision

**Centres of excellence vision for Gloucestershire**  
*A single, ground-breaking specialist hospital for Gloucestershire, operating out of two campuses, one in Cheltenham and one in Gloucester. All the specialist care and expertise you need will be right on hand: whether you are coming to us for planned surgery, or in an emergency.*

**Cheltenham General Hospital (CGH)**  
Centre of Excellence for  
Planned Care and Cancer

**Gloucestershire Royal Hospital (GRH)**  
Centre of Excellence for  
Emergency Care, Paediatrics and Obstetrics

**Our centres of excellence vision includes a greater separation between planned and emergency care...**



 

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## What is a centre of excellence?

**Specialist services are brought together to ensure:**

- Highly skilled clinical teams** are available round the clock to give patients the care they need
- Sophisticated equipment** is available and accessible to clinical teams and patients when required
- Clinical practice is enhanced through more **collaborative working**
- Quality and safety of care benefits** from best practice and a reduction in unwarranted variation
- Quicker assessment and decision-making** about patients treatment and onward care
- Improved patient experience** e.g. fewer cancellations



 

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## Aims

**We want to:**

- Improve health outcomes**
- Reduce waiting times** and ensure **fewer cancelled operations**
- Ensure **timely assessment and decision making** - you see the right hospital specialist to meet your needs
- Ensure there are **always safe staffing levels**, including senior doctors available 24/7
- Support **joint working between services** to reduce the number of visits you have to make to hospital
- Attract and keep the best staff** in Gloucestershire
- Create flagship **centres for research, training and learning**.

### What informed our vision & proposals...



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NHS Long Term Plan	Kings Fund	Royal College of Surgeons of England	Royal College of Physicians
Transforming Urgent and Emergency Care Services in England,	NHS England & Improvement	Royal College of Emergency Medicine	NICE Guidance
South West Clinical Senate	Getting It Right First Time (GIRFT)	Royal College of Anaesthetists	Provision of Vascular Services
Feedback from staff & public engagement	Nuffield Trust	Provision of Interventional Radiology Services	Feedback from Citizens' Jury

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### Options we are consulting on...

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 Gloucestershire Royal Hospital Acute Medical Take Emergency General Surgery Trauma inpatient services Image Guided Interventional Surgery 'Hub' Vascular Surgery Planned Lower GI (colorectal) service	Or	 Cheltenham General Hospital Gastroenterology inpatient services Planned day case General Surgery Planned Orthopaedic inpatient services Image Guided Interventional Surgery 'Spoke' Planned Lower GI (colorectal) service
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### Who we are consulting

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- Local patients and carers
- Members of the public
- Community and voluntary partners
- People in neighbouring areas who use services in Gloucestershire
- NHS and social care staff

**The public role**  
To make care even better, we need to **listen and understand** what you think about the proposals for change and how they might impact on you and your family. People can play their part by responding to the consultation.

The full consultation booklet sets out how people have been involved so far and how together we arrived at the options we are presenting in this consultation and how you can get involved.

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### How to get involved?

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We are undertaking a 'socially distanced' consultation:

- Supported by the *Consultation Institute*, which has provided independent assurance of the consultation process
- More virtual methods of consultation – such as online forums. We have a new online participation platform: **Get Involved in Gloucestershire** <https://getinvolved.glos.nhs.uk>
- Films
- Telephone interviews
- Staff Events
- Face-to-face\* Countywide Information Bus Tour
- Consultation materials, reviewed by Healthwatch Gloucestershire Readers Panel, distributed to local outlets e.g. full consultation booklet, summary consultation booklet, easy read booklet
- Online survey
- All of this available at [www.onegloucestershire.net/yoursay](http://www.onegloucestershire.net/yoursay) including other information such as planning documents

\* 3 of 10 sessions completed pre Lockdown 2, remaining 7 sessions to be rearranged post lockdown. All sessions designed to comply with social distancing and Infection Prevention & Control guidance.

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### What happens next?

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**Consultation LIVE to receiving feedback between 22 October and 17 December 2020**

- All feedback read and collated into a 'Output of Consultation' Report
- 2<sup>nd</sup> Citizen's Jury held in January 2021 to consider feedback from this consultation and make recommendations to NHS boards
- Consultation review period – GHNSFT and NHS CCG carefully consider all the feedback at meetings in public in March 2021
- Final decision - CCG Governing Body in March 2021 - Live streamed on the internet.

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