

Council (Council Tax)

SUPPLEMENTAL SUMMONS 2

DATE: Thursday 28 February 2013

1. COUNCIL MINUTES (Pages 1 - 274)

That the minutes of the ordinary meeting held on 8 November 2012 and the extraordinary meeting on 21 January 2013 be taken as read and signed as correct records.

9. FINAL REVENUE BUDGET AND MEDIUM TERM FINANCIAL STRATEGY 2013/14 TO 2016/17 (Pages 275 - 282)

On 20th February 2013, the Department for Communities and Local Government issued the supplementary statutory guidance 'Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011'.

Authorities in England are required to take account of the supplementary guidance when preparing their pay policy statements for 2013-14 and each subsequent financial year.

The proposed Pay Policy Statement 2013-14, included within the Agenda for this Council meeting, was prepared prior to the supplementary guidance being issued. In order to ensure compliance with the supplementary guidance the draft Pay Policy Statement 2013-14 has been reviewed and the Section 'Payments on Termination of Employment' amended.

A revised Pay Policy Statement 2013-14 is attached for Council approval.

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COUNCIL 28 FEBRUARY 2013

MINUTES

**COUNCIL MEETING – 8 NOVEMBER 2012
EXTRAORDINARY COUNCIL MEETING – 21 JANUARY 2013**

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COUNCIL MINUTES

8 NOVEMBER 2012

Present: * Councillor Nizam Ismail (The Worshipful the Mayor)
† Councillor Nana Asante (The Deputy Mayor)

Councillors:

<ul style="list-style-type: none"> * Husain Akhtar * Sue Anderson * Marilyn Ashton * Mrs Camilla Bath * Christine Bednell * James Bond * Mrs Lurline Champagnie OBE * Kam Chana * Ramji Chauhan * Mrinal Choudhury * Bob Currie * Margaret Davine * Mano Dharmarajah * Tony Ferrari * Keith Ferry * Ann Gate Brian Gate * David Gawn * Stephen Greek * Mitzi Green * Susan Hall * Graham Henson * Thaya Idaikkadar * Krishna James * Manji Kara * Zarina Khalid * Jean Lammiman * Barry Macleod-Cullinane * Kairul Kareema Marikar * Ajay Maru * Jerry Miles 	<ul style="list-style-type: none"> * Mrs Vina Mithani * Amir Moshenson * Chris Mote * Janet Mote * John Nickolay * Joyce Nickolay * Christopher Noyce * Phillip O'Dell * Asad Omar * Paul Osborn * Varsha Parmar * David Perry * Bill Phillips * Raj Ray * Richard Romain * Anthony Seymour * Lynda Seymour * Navin Shah * Mrs Rekha Shah * Sachin Shah * Stanley Sheinwald * Victoria Silver * Bill Stephenson * William Stoodley * Krishna Suresh * Sasi Suresh * Yogesh Teli * Ben Wealthy * Simon Williams * Stephen Wright
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* Denotes Member present
† Denotes apologies received

PRAYERS

The meeting opened with Prayers offered by Imam Anas Mohamed.

240. COUNCIL MINUTES

RESOLVED: That the minutes of the Council meeting held on 5 July 2012 be taken as read and signed as correct records.

241. DECLARATIONS OF INTEREST

The Mayor invited appropriate declarations of interest.

Item 6 – Public Questions

Councillor Camilla Bath declared a pecuniary interest in relation to the questions relating to the Whitchurch Pavillion as she was the Chair of Governors at Whitchurch First School and Nursery. She would leave the Chamber during this item.

Councillor Christine Bednell declared a non-pecuniary interest in that she was a Governor at Vaughan School, which was referred to in a number of questions.

Councillor Amir Moshenson declared a pecuniary interest in relation to the questions relating to the Whitchurch Pavillion and would leave the Chamber during this item.

Item 9A – Community Safety Plan and Strategic Assessment and Item 9B – Community Safety Plan

Councillor Susan Hall declared a non-pecuniary interest in that she owned a business in Wealdstone, which was an area covered by the Community Safety Plan.

Item 14(4) – Motion – Change to Planning Laws and Regulations

Councillor Anthony Seymour declared a non-pecuniary interest in that he regularly advised clients on planning matters in his role as a solicitor.

Item 14(5) – Motion – Proposals to Re-organise the Health Service Motion

Councillor Husain Akhtar declared a non-pecuniary interest in that his son worked for the NHS.

Councillor Sue Anderson declared a pecuniary interest and would leave the Chamber during the discussion and decision making on this item.

Councillor Marilyn Ashton declared a non-pecuniary interest in that her mother received funding from the NHS to reside in a care home.

Councillor Ann Gate declared a pecuniary interest and would leave the Chamber during the discussion and decision making on this item.

Councillor Krishna James declared a non-pecuniary interest in that she was a registered nurse and had members of her family who worked for the NHS.

Councillor Vina Mithani declared a non-pecuniary interest in that she worked for the Health Protection Agency.

Councillors Chris Mote and Janet Mote declared non-pecuniary interests in that their daughter worked for Northwick Park Hospital.

242. MAYOR'S ANNOUNCEMENTS

The Mayor requested that Council note the engagements he had undertaken. The Mayor advised that since his election in May 2011, he had attended almost 320 engagements.

The Mayor also congratulated, on behalf of the Council, Richard Hounslow and Naomi Riches, who had recently been successful at the Olympic and Paralympic Games respectively.

RESOLVED: That the report of the Worshipful the Mayor, as tabled, be noted.

243. PROCEDURAL MOTIONS

- (i) The Mayor proposed that in relation to Item 8, Leader's Announcements, both Councillor Stephenson and whomever was elected as Leader of the Council, be allowed to speak on this item. Upon a vote this proposal was agreed.
- (ii) Councillor Barry Macleod-Cullinane rose to move a Procedural Motion that Motion 14(7), be debated prior to Motion 14(1). Upon a vote, the Procedural Motion was not carried.

RESOLVED: That

- (1) both Councillor Stephenson and whomever was elected as Leader of the Council, be allowed to speak on Item 8, Leader's Announcements;**
- (2) the procedural Motion under Rule 15.1, seeking the consideration of Motion 14(7) (Children's Services) before Motion 14(1) (Councillors' Allowances), be not agreed.**

244. PETITIONS

In accordance with Rule 10, the following petitions were presented:

- (i) Petition submitted by Councillor Lynda Seymour containing 76 signatures of residents requesting pavement improvements on the south side of Vernon Drive.

[The petition stood referred to the Portfolio Holder for Environment and Community Safety].

- (ii) Petition submitted by Councillor Marilyn Ashton containing 84 signatures of residents requesting improvements to pavements and trees at Drummond Drive, Stanmore.

[The petition stood referred to the Portfolio Holder for Environment and Community Safety].

- (iii) Petition submitted by Councillor Lurline Champagnie containing 3 signatures of residents requesting the re-erection of 2 direction signs for the Parish Church in Hatch End.

[The petition stood referred to the Portfolio Holder for Environment and Community Safety].

- (iv) Petition submitted by Councillor Susan Hall containing 179 signatures of residents opposing the building development plans to expand Vaughan School.

[The petition stood referred to the Portfolio Holder for Children, Schools and Families].

- (v) Petition submitted by Councillor Richard Romain containing 22 signatures of residents to alter parking restriction times at Kerry Court, Stanmore.

The petition stood referred to the Portfolio Holder for Environment and Community Safety.

- (vi) Petition submitted by a resident containing 145 signatures of residents opposing the redevelopment of the Teachers Centre to provide accommodation for the Avanti School.

[The petition stood referred to the Portfolio Holder for Children, Schools and Families].

245. PUBLIC QUESTIONS

- (i) In accordance with Rule 11, the questions submitted by members of the public and responded to by Portfolio Holders is contained at Appendix I. Responses to those questions which were not reached

during the period allowed for questions are also included and were circulated to all Members in written form.

- (ii) During this item, Councillor Thaya Idaikkadar rose to propose that the time limit for public questions be extended by 5 minutes. Upon a vote, this proposal was agreed.
- (iii) Further during the item, Councillor Barry Macleod-Cullinane rose to propose that the time limit be extended to allow all public questions to be asked at the meeting. Upon a vote, this proposal was not agreed.

[Councillors Ashton, Bath, Bednell, Champagnie, Chana, Chauhan, Ferrari, Greek, Hall, Kara, Lammiman, Macleod-Cullinane, Mithani, Moshenson, Chris Mote, Janet Mote, John Nickolay, Joyce Nickolay, Osborn, Romain, Anthony Seymour, Lynda Seymour, Teli, Williams and Wright wished to be recorded as having voted for the proposal that the time limit to be extended to allow all public questions to be asked at the meeting].

246. APPOINTMENT OF THE LEADER OF THE COUNCIL

- (i) Councillor Bill Stephenson rose to formally announce his resignation as Leader of the Council.
- (ii) Councillor Thaya Idaikkadar and Councillor Hall were each proposed and seconded for the position of the Leader of the Council.
- (iii) Upon a request by more than 10 Councillors a roll call vote was held on the election of a new Leader of the Council.
- (iv) On a point of order, a Member rose to seek clarification on whether a roll call could be requested for this item. The Mayor ruled that the request was valid.
- (v) Upon a vote, Councillor Thaya Idaikkadar was elected as Leader of the Council.

RESOLVED: That Councillor Thaya Idaikkadar be elected Leader of the Council.

Roll Call Vote:

In Favour of Councillor Thaya Idaikkadar: Councillors Akhtar, Anderson, Bond, Choudhury, Currie, Davine, Dharmarajah, Ferry, Ann Gate, Gawn, Green, Henson, Idaikkadar, James, Khalid, Marikar, Maru, Miles, O'Dell, Omar, Parmar, Perry, Phillips, Ray, Navin Shah, Rekha Shah, Sachin Shah, Silver, Stephenson, Stoodley, Krishna Suresh, Sasikala Suresh and Wealthy.

In Favour of Councillor Susan Hall: Councillors Ashton, Bath, Bednell, Champagnie, Chana, Chauhan, Ferrari, Greek, Hall, Kara, Lammiman, Macleod-Cullinane, Mithani, Moshenson, Chris Mote, Janet Mote, John

Nickolay, Joyce Nickolay, Osborn, Romain, Anthony Seymour, Lynda Seymour, Teli, Williams and Wright.

Abstain: Councillors Noyce and Sheinwald.

247. LEADER'S ANNOUNCEMENTS

- (i) The Leader of the Council, Councillor Thaya Idaikkadar, and Councillor Bill Stephenson, introduced their joint report highlighting achievements and proposals since the last ordinary meeting.
- (ii) At the conclusion of the report, The Leader, Councillor Thaya Idaikkadar, and Councillor Bill Stephenson responded to questions from Members of the Council.
- (iii) At the conclusion of the item, the Mayor proposed that the time limit for this item be extended by 10 minutes to allow tributes to be made to Councillor Bill Stephenson. Upon a vote, this proposal was agreed.
- (iv) Councillors Husain Akhtar, Camilla Bath, James Bond, Susan Hall, The Worshipful The Mayor Councillor Nizam Ismail, Jean Lammiman, Chris Mote, Chris Noyce, Richard Romain, Navin Shah and Sachin Shah spoke in tribute to Councillor Bill Stephenson.

RESOLVED: That

- (i) the report of the Leader of the Council be received and noted;**
- (ii) the Council place on record its appreciation and thanks to Councillor Bill Stephenson for his term as Leader of the Council.**

248. COMMUNITY SAFETY PLAN

- (i) Further to item 9A on the Summons, Councillor Jerry Miles moved Recommendation I of the Overview and Scrutiny Committee meeting held on 20 September 2012.
- (ii) Further to item 9B on the Summons, the Leader of the Council, Councillor Thaya Idaikkadar moved Recommendation I of the Cabinet meeting held on 13 September 2012.

RESOLVED: That

- (i) the comments of the Overview and Scrutiny Committee from its meeting held on 20 September 2012 be noted;**
- (ii) the Community Safety Plan be agreed and adopted, as contained in Appendix II to these minutes.**

249. HARROW COMMUNITY INFRASTRUCTURE LEVY - DRAFT CHARGING SCHEDULE

Further to item 10 on the Summons, the Leader of the Council, Councillor Thaya Idaikkadar moved Recommendation II of the Cabinet meeting held on 11 October 2012.

RESOLVED: That the Community Infrastructure Levy (CIL) Draft Charging Schedule, at Appendix III to these minutes, be approved for the purposes of a six week period of public consultation, in accordance with the Council's adopted Statement of Community Involvement.

250. CHANGES TO THE OVERVIEW AND SCRUTINY COMMITTEE

Further to item 11 on the Summons, Councillor Jerry Miles moved Recommendation II of the Overview and Scrutiny Committee meeting held on 20 September 2012.

RESOLVED: That a representative of Harrow's Youth Parliament be appointed as a co-opted non-voting member of the Overview and Scrutiny Committee.

251. YOUTH JUSTICE PLAN AND YOUTH OFFENDING IMPROVEMENT PLAN FOLLOWING CORE CASE INSPECTION OF YOUTH OFFENDING WORK

(i) Further to item 12A on the Summons, Councillor Jerry Miles moved Recommendation III of the Overview and Scrutiny Committee meeting held on 24 October 2012.

(ii) Further to item 12B on the Summons, the Leader of the Council, Councillor Thaya Idaikkadar moved Recommendation III of the Cabinet meeting held on 11 October 2012.

(iii) In accordance with Rule 12.1, a number of Questions Without Notice were asked and responded to.

RESOLVED: That

(i) **the comments of the Overview and Scrutiny Committee from its meeting held on 24 October 2012 be noted;**

(ii) **the Youth Justice Plan be agreed and adopted, as contained in Appendix IV to these minutes.**

252. QUESTIONS WITH NOTICE

(i) In accordance with Rule 12, the questions submitted by Councillors and responded to by Portfolio Holders, are contained at Appendix V. Responses to those questions which were not reached during the

period allowed for questions are also included and were circulated to all Members in written form.

- (ii) During this item, Councillor Barry Macleod-Cullinane rose to propose that the time limit be extended by 5 minutes to allow further Councillor questions to be asked at the meeting. Upon a vote, this proposal was not agreed.

253. MOTION - COUNCILLORS' ALLOWANCES

- (i) At item 14(1) the Council received a Motion in the names of Councillors Graham Henson and Bill Stephenson in the following terms:

“Council notes that it currently pays the third lowest level of basic allowance to Councillors across London at around three quarters the rate recommended by the London Councils Independent Remuneration Panel.

This Council further notes the agreement signed by the Council and the recognised trade unions on the modernisation of its employment terms and conditions of directly employed staff, and congratulates the Trade Unions and the Council staff on the mature way this agreement has been negotiated.

Council further notes that in future no member of staff will be paid below the London Living Wage, staff will be able to work in a much more flexible and mobile way according to individuals' aspirations and the council's needs, and that all staff will receive an extra day's holiday.

Council further notes that staff paid more than £21,000 have agreed to take a pay cut of 1% cut from 1st January 2013 and the highest paid a cut of 2.5%.

Council fully endorses the commitment made by the former Leader of the Council that any cut in salaries agreed by staff would be matched by an exactly similar measure for councillors' allowances.

Council therefore resolves that from January 1, 2013 the Special Responsibility Allowance (SRA):

- For the Leader should be cut from £31,110 to £30,799 reducing the total remuneration by 1% from 39,270 to 38,959.
- For Portfolio Holders should be cut from £19,890 to £19,690 reducing the total remuneration by 1% from £28,050 to £27,850.”

- (ii) Upon a vote the Motion was carried.

RESOLVED: That the substantive Motion be adopted.

254. MOTION - THE RIGHT OF CHILDREN'S EDUCATION

- (i) At item 14(2) the Council received a Motion in the names of Councillors Graham Henson and Ben Wealthy in the following terms:

“Council notes that the United Nations Declaration of Human Rights states that:

Article 19

(1) Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

This Council wishes to put on record its thanks to the Borough's teachers and Council staff in the Children, Families & Schools Directorate who have worked relentlessly to ensure that high quality education is available to all children in Harrow regardless of gender. This Council notes that this right to education is not available everywhere.

With the support of the Council and in particular Officers from the Children, Families & Schools Directorate, fifty seven of our schools, including some academies, are working together as full or associate partners of the leading edge Harrow Schools' Improvement Partnership to collaborate and secure continuing improvement.

The value of partnership and community will continue to work with all our schools to secure an education system that does continuously improve and provide the best possible start for all of Harrow's young people.

This Council deplores the shooting and maiming of many children around the world, with the most recent being Malala Yousafzai and her friends, because they publicly fought for the right of every girl to go to school.

Council resolves to join the international call on all countries to fully implement the United Nations Declaration of Human Rights, in particular, by outlawing discrimination against girls and in line with this fully supports the international campaign to ensure that the world's 61 million out of school children are in education by the end of 2015

This Council instructs the Chief Executive to send messages of support to Malala Yousafzai, one of many amazing young women for their courage and bravery in fighting for the cause which they have championed, Harrow Schools and through the Council's e-bulletins and other means to publicise the 10th November, which will be when the international petition will be handed to the United Nations to ensure international support for the push for girls education and the right of every child to go to school and will build on the momentum of the UN Secretary General's Education First initiative to show that for the first time in history, the world will no longer let education be for the privileged few, but instead a right for all."

- (ii) There was a tabled amendment in the names of Councillors Barry Macleod-Cullinane and Susan Hall, which sought to amend the Motion as follows:

"This Council notes that:

- Education is key in the fight against extremism and that there can be no excuse for limiting the freedom and rights of all children.
- The words of Pakistan's Prime Minister that Malala Yousafzai is 'our' daughter, who believes, like so many of us, in change.
- That Malala is only 1 of 32 million girls worldwide who are denied the right to go to school every day, and that only a third of girls globally are enrolled in secondary school.
- That education of girls is not just a moral issue but makes sense both socially and economically. Noting that it can; Reduce the rate of child marriage: A girl who has 7 years of education will typically marry four years later and have fewer children, Reduce disease: A girl who has basic education is three times less likely to contract HIV, Strengthen the economy: Only a year of extra school can increase a girl's future earnings by 10% to 20%, Promote health: Children born to educated mothers are twice as likely to survive beyond the age of 5.

Council notes that the United Nations Declaration of Human Rights states that:

Article 19

(1) Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

This Council wishes to put on record its thanks to the Borough's teachers and Council staff in the Children, Families & Schools Directorate who have worked relentlessly to ensure that high quality education is available to all children in Harrow regardless of gender. This Council notes that this right to education is not available everywhere.

With the support of the Council and in particular Officers from the Children, Families & Schools Directorate, fifty seven of our schools, including some academies, are working together as full or associate partners of the leading edge Harrow Schools' Improvement Partnership to collaborate and secure continuing improvement.

The value of partnership and community will continue to work with all our schools to secure an education system that does continuously improve and provide the best possible start for all of Harrow's young people.

This Council deplores the shooting and maiming of many children around the world, with the most recent being Malala Yousafzai and her friends, because they publicly fought for the right of every girl to go to school.

Council resolves to join the international call on all countries to fully implement the United Nations Declaration of Human Rights, in particular, by outlawing discrimination against girls and in line with this

fully supports the international campaign to ensure that the world's 61 million out of school children are in education by the end of 2015

This Council instructs the Chief Executive to send messages of support to Malala Yousafzai, one of many amazing young women for their courage and bravery in fighting for the cause which they have championed, Harrow Schools and through the Council's e-bulletins and other means to publicise the 10th November, which will be when the international petition will be handed to the United Nations to ensure international support for the push for girls education and the right of every child to go to school and will build on the momentum of the UN Secretary General's Education First initiative to show that for the first time in history, the world will no longer let education be for the privileged few, but instead a right for all."

(iii) Upon a vote, the amendment at (ii) was lost.

(iv) Upon a further vote the substantive Motion at (i) was agreed.

RESOLVED: That the substantive Motion, as set out at (i) above, be adopted.

255. MOTION - HARROW'S POLICING

(i) At item 14(3) the Council received a Motion in the names of Councillors Navin Shah and William Stoodley in the following terms:

"The Council notes and calls for urgent action in respect of the following

Joint Borough Command

The Mayor's Office for Policing and Crime (MOPAC) is promoting the sharing of Borough Commanders between the Boroughs of Harrow and Barnet.

Council is opposed to any such proposal as it would undermine the effectiveness of policing in Harrow and risk the safety of the people of Harrow. The Council urges MOPAC and the Mayor of London to withdraw this proposal.

New Policing Model for Harrow

Council is extremely concerned about the depleted Safer Neighbourhood Teams (SNTs) across in Harrow, the uncertainty of what the new policing model will comprise and the timetable for its implementation.

Safer Neighbourhood Boards (SNB)

Whilst MOPAC consults and puts forward its timetable for implementation of the proposed Safer Neighbourhood Boards, Council deplores the continuing failure to consult with residents on how to communicate and engage with them about local policing matters despite repeated calls to do from the Council itself as well as many other organisations such as HPCCG.

The Council instructs the Chief Executive to communicate the resolutions above to the Deputy Mayor of Policing and the Mayor of London, the local MPs and the GLA Member for Brent and Harrow.”

- (ii) There was a tabled amendment in the names of Councillors Susan Hall and Barry Macleod-Cullinane, which sought to amend the Motion as follows:

“The Council notes and calls for urgent action in respect of the following:

Joint Borough Command

Council is concerned at draft proposals from the Mayor’s Office for Policing and Crime (MOPAC) to share Borough Commanders between the Boroughs of Harrow and Barnet. Council is opposed to any such proposal as it would undermine the effectiveness of policing in Harrow. The Council urges MOPAC and the Mayor of London not to adopt this proposal.

New Policing Model for Harrow

Council is additionally concerned about the inconsistency regarding the composition of Safer Neighbourhood Teams (SNTs) across Harrow, as well as the uncertainty of what the new policing model will comprise and the timetable for its implementation. This Council notes the reduction in the Council-funded team by the present administration, and is therefore particularly eager to know how the new model will function and be funded.

Safer Neighbourhood Boards (SNB)

Whilst MOPAC consults and puts forward its timetable for implementation of the proposed Safer Neighbourhood Boards, Council requests a more concerted, corporative and cross-party effort to consult with residents and engage with them about local policing matters.

The Council instructs the Chief Executive to communicate the resolutions above to the Deputy Mayor of Policing and the Mayor of London, the local MPs and the GLA Member for Brent and Harrow.”

- (iii) Upon a vote, the amendment at (ii) was lost.

- (iv) Upon a further vote the substantive Motion at (i) was agreed.

RESOLVED: That the substantive Motion, as set out at (i) above, be adopted.

256. MOTION - CHANGE TO PLANNING LAWS AND REGULATIONS

- (i) At item 14(4) the Council received a Motion in the names of Councillors Keith Ferry and William Stoodley in the following terms:

“This Council notes with rising concern, the ill thought out reforms to the UK’s planning system, in particular the proposals to enable applicants to avoid local decision making by applying direct to the Secretary of State for planning permission; proposals to allow Planning Inspectors to unilaterally determine affordable housing levels within a development at a time of housing crisis and the changes to permitted development that will enable monster extensions to homes destroying amenity and value without planning permission, the changes of use from offices to residential without the necessary controls to keep employment, or minimum standards to safeguard occupiers or the means to secure necessary contributions to infrastructure such as schools and health.

At a time of unprecedented uncertainty in the development sector, these changes are causing schemes to be delayed, whilst people wait and see, and will give rise to considerable anxiety to local communities being asked to accept new homes and development. Meanwhile, those parties, including Harrow Council, who seek to engage constructively in the realisation of community benefit from new development, are finding the uncertainty compounding, rather than supporting enterprise and growth locally. The proposals run counter to the government’s so called localism agenda and will instead allow important planning outcomes to be determined by Whitehall, rather than locally democratically elected Councillors.

This Council deplores the recent announcement by the Government that permitted development rights will be increased to allow house extensions of up to 8 metres to be built without local authority permission.

This Council agrees with the Local Government Association’s statement that “This policy potentially gives the green light to unsightly and out-of-place development without delivering a big enough boost to the construction industry to justify the potential damage”.

This Council notes that the Mayor of London has stated his opposition to this change in policy.

This Council resolves to oppose this measure and to opt out of the legislation if this is at all possible.

Council instructs the Chief Executive to communicate this motion to the Minister for Communities and Local Government, the Mayor of London, the three Harrow MPs and the GLA member for Brent and Harrow.”

- (ii) There was a tabled amendment in the names of Councillors Stephen Greek and Joyce Nickolay which sought to amend the Motion as follows:

“This Council deplores the recent announcement by the Government that permitted development rights will be increased to allow house extensions of up to 8 meters to be built without local authority permission.

This Council agrees with the Local Government Association’s statement that “This policy potentially gives the green light to unsightly and out of-place development without delivering a big enough boost to the construction industry to justify the potential damage”.

This Council notes that the Mayor of London has stated his opposition to this change in policy.

This Council resolves to oppose this measure and to opt out of the legislation if this is at all possible.

Council instructs the Chief Executive to communicate this motion to the Minister for Communities and Local Government, the Mayor of London, the three Harrow MPs and the GLA member for Brent and Harrow.”

- (iii) Upon a vote, the amendment at (ii) was lost.
- (iv) Upon a further vote the substantive Motion at (i) was agreed.

RESOLVED: That the substantive Motion, as set out at (i) above, be adopted.

257. MOTION - PROPOSALS TO RE-ORGANISE THE HEALTH SERVICE

- (i) At item 14(5) the Council received a Motion in the names of Councillors Margaret Davine and Navin Shah in the following terms:

“Council notes with great concern the impact on the health of local residents of three major changes of health provision

- The totally under funded transfer of Public Health to the Council, although the transfer of Public Health to the Council is welcome.
- The totally under funded, top down, bureaucratic, centralised, ill-thought out system of GP Commissioning.

- The totally under funded proposals to re-organize hospital and specialist provision in North West London.

Council believes these proposals and the dramatic cuts to and privatisation of NHS services will have serious potential to negatively impact on the most essential care for people of Harrow. The Council is particularly anxious about the detrimental impact the changes would have on the Northwick Park Hospital given that there are no guarantees that any of the proposed changes will be properly funded.

The Council calls on the government to review its proposals so as to maintain the highest levels of medical services.

Council instructs the Chief Executive to write to the Mayor of London, the three Harrow MPs and the Brent and Harrow Assembly member asking them to support Harrow Council and Harrow residents by lobbying the Government to stop deep cuts and erosion of local medical care and services.”

- (ii) There was a tabled amendment in the names of Councillors Simon Williams and Barry Macleod-Cullinane which sought to amend the Motion as follows:

“Council notes with great concern the impact on the health of local residents of three major changes of health provision:

- The totally under funded transfer of Public Health to the Council, due to Harrow PCT’s historical under-funding in this area; although the actual transfer of Public Health to the Council is welcome. This Council is particularly concerned by the accuracy of the morbidity data which affects the size of the public health budget. This Council is therefore ensuring that all mechanisms are in place to ensure data collection is as accurate as possible, so that the needs of Harrow’s residents are truly reflected in our Public Health budget allocation.
- The totally under funded, top down, bureaucratic, centralized, ill-thought out system of GP Commissioning.
- The totally under funded proposals to re-organize hospital and specialist provision in North West London.

Council believes these proposals and the dramatic cuts to and privatisation of NHS services will have serious potential to negatively impact on the most essential care for people of Harrow. The Council is particularly anxious about the detrimental impact the changes would have on the Northwick Park Hospital given that there are no guarantees that any of the proposed changes will be properly funded. Council further notes that prior to the 2005 General Election, Labour MP Gareth Thomas – Harrow West – promised that funding had been

secured for a “brand new hospital costing £305 million” to be built by 2010 at Northwick Park.

The Council calls on the government to review its proposals so as to maintain the highest levels of medical services.

Council instructs the Chief Executive to write to the Mayor of London, the three Harrow MPs and the Brent and Harrow Assembly member asking them to support Harrow Council and Harrow residents by lobbying the Government to stop deep cuts and erosion of local medical care and services.”

(iii) Upon a vote, the amendment at (ii) was lost.

(iv) Upon a further vote the substantive Motion at (i) was agreed.

RESOLVED: That the substantive Motion, as set out at (i) above, be adopted.

258. MOTION - EARLY INTERVENTION

(i) At item 14(6) the Council received a Motion in the names of Councillors Victoria Silver and Mitzi Green in the following terms:

“This Council recognises Harrow’s success in Early Intervention with the last Government’s introduction of Sure Start Children’s Centres and commends the current administration’s innovative work.

The Council regards early intervention projects as incredibly important in both giving young children and young families the best start in life and in generating savings to the public sector in the longer-term through reduced levels of demand on public services.

Council notes that:

- the cut in funding this Council is set to receive from the Government’s Early Intervention Grant in 2012/13, particularly in relation to the services it is expected to deliver, and that residents rightly demand.
- the fears that further cuts to Harrow’s early intervention services may jeopardise all the work Harrow has achieved in this area.
- in the future this might mean there being higher levels of crime, reduced levels of educational attainment and extra demand on Harrow’s health services.

Council calls on all political group leaders to write to the Secretary of State to call on him to exempt Harrow from any cuts in its 2013/14

grant, so that Harrow may continue its Early Intervention work as a matter of urgency.”

- (ii) There was a tabled amendment in the names of Councillors Susan Hall and Barry Macleod-Cullinane which sought to amend the Motion as follows:

“This Council recognises Harrow’s success in Early Intervention with the last Government’s introduction of Sure Start Children’s Centres.

The Council regards early intervention projects as incredibly important in both giving young children and young families the best start in life and in generating savings to the public sector in the longer-term through reduced levels of demand on public services. Council notes:

- fears that cuts to Harrow’s early intervention funding may put at risk services and all the work Harrow has achieved in this area.
- in the future this might mean there being higher levels of crime, reduced levels of educational attainment and extra demand on Harrow’s health services.

Council echoes the concerns of the Local Government Association and others regarding a lack of clarity on the future funding of the Early Intervention Grant, and pledges to write to the Secretary of State to call on him to provide said clarification, and to exempt Harrow from any cuts in its 2013/14 grant, so that Harrow may continue its Early Intervention work as a matter of urgency.”

- (iii) Upon a vote, the amendment at (ii) was lost.

- (iv) Upon a further vote the substantive Motion at (i) was agreed.

RESOLVED: That the substantive Motion, as set out at (i) above, be adopted.

259. MOTION - CHILDREN'S SERVICES

- (i) At item 14(7) the Council received a Motion in the names of Councillors Susan Hall and Christine Bednell in the following terms:

“This Council notes with serious concern the findings of recent inspections of Harrow’s Children’s Services.

An OFSTED inspection of Harrow’s safeguarding and children looked after service rated the performance as ‘adequate’, and also judged the capacity to improve as merely ‘adequate’.

The Core Case inspection of Harrow’s Youth Offending Team said that Harrow’s performance was ‘very disappointing’, and recommended ‘substantial’ or ‘drastic’ improvement in all areas of the service. This

Council notes with additional concern that the Improvement Plan resulting from this inspection has taken over 10 months to produce.

This Council believes that safeguarding and protecting vulnerable children should be a top priority. This Council therefore requests that the portfolio holder for Children, Schools and Families present an update on the progress of both the YOT Improvement Plan before Council tonight, and that relating to the OFSTED report, to all Council and Cabinet meetings for the next 12 months.

Additionally, this Council requests a formal report at the next Cabinet meeting to explain the delay in producing the YOT improvement plan – given the inspection outcome was known in December 2011.”

(ii) Upon a vote, the Motion was not carried.

RESOLVED: That the Motion be not adopted.

260. MOTION - LONDON 60+ CARD

In accordance with Rule 14.7, this Motion stood referred to the Executive.

261. DECISIONS TAKEN UNDER URGENCY PROCEDURE BY PORTFOLIO HOLDERS, LEADER AND DEPUTY LEADER, AND USE OF SPECIAL URGENCY PROCEDURE

The Council received a report of the Director of Legal and Governance Services providing a summary of the urgent decisions taken by Cabinet, the Leader and Portfolio Holders, and the use of the special urgency procedure since the last meeting.

RESOLVED: That the report be noted.

262. DECISIONS TAKEN UNDER THE URGENCY PROCEDURE - COUNCIL

The Director of Legal and Governance Services advised of two urgent decisions taken in respect of matters reserved to Council since the last meeting.

RESOLVED: That the decision taken under delegation by the Director of Legal and Governance Services, on behalf of Council, be noted.

263. PROCEDURE FOR TERMINATION OF MEETING

(i) At 10.29 pm, during the debate on the Item 14(1) (Motion: Councillors' Allowances), the Mayor put forward a proposal that the closure of time for the Council meeting be extended until the completion of all remaining business on the Summons. This proposal was not agreed;

- (ii) at 10.30 pm, in the course of the consideration of Item 14(1) (Councillors' Allowances), the Mayor advised that the 'guillotine' procedure had come into operation for the determination of the remaining business on the Summons and was applied to Items 14(1) (Motion: Councillors' Allowances, 14(2) (Motion: The Right of Education), 14(3) (Motion: Harrow's Policing), 14(4) (Motion: Change to Planning Laws and Regulation), 14(5) (Motion: Proposals to Re-organise the Health Service), 14(6) (Motion: Early Intervention), 14(7) (Motion: Children's Services), 15 (Decisions Taken Under Urgency Procedure by Portfolio Holders, Leader and Deputy Leader and Use of Special Urgency Procedure) and 16 (Decisions Taken Under the Urgency Procedure – Council).

RESOLVED: That the provisions of Rules 9.2 and 9.3 be applied as set out at (i) and (ii) above.

(CLOSE OF MEETING: All business having been completed, the Mayor declared the meeting closed at 10.33 pm).

COUNCIL

8 NOVEMBER 2012

PUBLIC QUESTIONS (ITEM 6)

A period of up to 15 minutes is allowed for the asking of written questions by members of the public of a Member of the Executive or the Chairman of any Committee.

1.

Questioner: Rosalyn Neale

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: “Concerning the Vaughan School Expansion. I refer to the report by Catherine Doran to the Overview and Scrutiny Committee on 24th October in which she mentions a key risk is affordability. She details the cost for Vaughan School as £8.9million but we have an email from Adrian Parker dated 10th September quoting an all inclusive budget of £8.5 million. Can you please advise how costs have increased by nearly 5% in a month? This question was asked at the Overview and Scrutiny meeting but we were told the £8.5 million wasn't mentioned previously and so the question wasn't answered. We have this email with us and it has been forwarded to several councillors including the chair and vice chair of that meeting Councillor Miles and Councillor Osborn. May we please now have an answer?”

Answer: The expansion of Vaughan Primary School is a key element of phase 1 of the Council's programme to fulfil a statutory duty to provide sufficient school places for residents' children. Councillors and officers are working hard to implement a programme that provides these places, at a quality that is expected by residents and at a cost that provides the best value for money. Given the current demographic pressures in Harrow and the tight financial position, this is no easy task.

The Council is delighted that the current strategy is delivering the right number of good quality school places such that, unlike some London Councils, all Harrow residents can be offered a school place.

Any building programme will impact on the community and we are doing all we can to both deliver the school expansion

programme and address the very real issues that arise for residents.

Specifically, the £8.9m, referred to in the Overview and Scrutiny report, is the overall project budget for the expansion of Vaughan reported to Cabinet on 20 June.

In subsequent design development meetings with our construction partners we have been working hard to achieve greater value for money, whilst not compromising on the national school construction guidelines. As a result of these meetings we have set ourselves an internal construction target of £8.5m. This is what was referred to by Adrian Parker in his email.

Supplemental Question: We understand that there has been a delay in the planning process as extra information has been requested by the Planning Department.

Does the extra £400,000 relate to the additional information requested or if not, then will that also incur additional costs, as it appears that costs are spiralling out of control and of course, the funding has not yet been finalised?

Supplemental Answer: I do not believe it is a supplementary to your original question. I can only repeat what I have just told you.

In subsequent design development meetings with our construction partners we have been working hard to achieve greater value for money, whilst not compromising on the national school construction guidelines. As a result of these meetings we have set ourselves an internal construction target of £8.5m.

2.

Questioner: Graeme Neale

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: "If the Planning Application for the Vaughan School expansion is approved, the number of pupils arriving for school each morning will rise by 50% taking the current number of 420 to 630. There will also be an equivalent increase in the number of guardians and staff arriving at the school each morning.

I am therefore very concerned that there will be a serious road accident due to this massive increase in volumes.

The only strategy that seems to be in place for dealing with this

increase is the travel plan put forward by the school at the September residents meeting which states that their strategy is to encourage pupils to walk to school and use bikes / scooters.

However, the schools own newsletters have highlighted serious safety concerns that currently exist using bikes and scooters. It has been brought to the attention of parents in 7 of the school newsletters since February 2011.

If the expansion goes ahead, what is miraculously going to change to make this issue that is unmanageable today, suddenly manageable?"

Answer:

The increased traffic and congestion issues associated with the proposals to permanently expand schools in Harrow are fully acknowledged. These are existing issues in an urban area like Harrow and will be exacerbated by any school expansion programme.

The Council will consider all possible traffic management options as part of every proposed school expansion. We too will be anxious to do all that is realistically possible to avoid road accidents.

The school quite rightly does all it can to encourage safe and considerate travel to school, as demonstrated in its newsletters. The newsletters highlight issues of congestion in the playgrounds and on the pathways and ask that bikes and scooters are not ridden on the school premises at the beginning or the end of the school day. The plans for the proposed building works at the school seek to improve existing movement around the site and include provision of additional cycle racks to promote safe use for travelling at the beginning and end of the school day.

A Travel Plan has been submitted as part of the planning application pack. The Travel Plan aims to achieve 86% (2011/12 target) of pupils arriving by means other than cars. It will be a matter for the Planning Committee to determine whether the likely traffic impact of the proposals, when balanced against all other material planning considerations, justifies supporting the proposals.

The Travel Plan will be available to view online once the planning application validation is concluded. It is expected to be considered by Planning Committee in January.

Supplemental Question:

There is no doubt that the small roads around the entrance to Vaughan School are not designed, or capable of, handling the increase in traffic. When the inevitable accident happens and a child gets injured or worse, then who in the Council is going to

take responsibility for imposing this ridiculous, ill-thought out expansion plan and take responsibility for endorsing a travel plan which is already flawed and dangerous?

So my question to all of you is, which one of you will be able to justify this decision to a distraught parent?

Supplemental Answer: Mr Neale, I sympathise with your point of view. It is a problem we have in every school in Harrow. If you speak to any parents or any headteacher from any school in Harrow, they would tell you, we have problems in the morning and the evening with parents dropping off and bringing their children from school.

I know the roads around Vaughan School. I can see where you are coming from on this particular point of view. From our point of view, we have to find up to 300 more places for children in schools next year. It is our statutory duty to do that. All I can say to you at this particular point in time, and when it comes to it, hopefully the headteacher and the local authority will sit down with residents and try and find a way to get through this.

3.

Questioner: Dipak Raja

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: "My question relates to the Vaughan School Expansion. Residents were advised that a noise attenuation study was undertaken at the request of the planning department. Regarding this study, can you please advise what was surveyed and how the noise impact on the residents during and after construction was assessed and furthermore, what were the conclusions of the study? This question has already been asked in an e-mail but residents are still awaiting an answer."

Answer: An Acoustic and Ventilation Strategy and Plant Noise Limit Report, additional to all the other surveys undertaken in the development of the project, have been submitted as part of the planning application pack. This report pack will be scrutinised by Planning Officers and considered by the Planning Committee. The report pack will be made available online to the general public once the planning application validation is concluded. In light of the imminent release of this report pack that contains considerable amounts of information, it is impossible to summarise in a short answer. Once the report pack has been made available online, it would be better that any comment or objection is raised through the official planning application process.

4.

Questioner: Anant Shah

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: "There is a stream that runs across the school playing field called "Smarts Brook" in the Boroughs Strategic Flood Risk assessment Volume 1. planning and policy report this Brook is given the status of FLOOD ZONE 3 which classifies it as a High probability Zone with a high risk of flooding. Any development in this area will be subject to high Flood Risk. The potential development on this land will increase flood risk elsewhere through the removal of permeable surfaces such as grass and the addition of hard surfaces. As the proposed development removes the entire grass field and adds hard surfaces then I presume a flood risk assessment was carried out at the outset. Could you please confirm that a FLOOD RISK assessment has been carried out and what the recommendations were?"

Answer: An initial Flood Risk Assessment (FRA) has been carried out. This FRA is being refined at the request of the Planning Department to ensure that full and appropriate consideration is given to any flooding issues. The FRA, including its recommendations, will be available in the report pack to view online once the planning application validation previously referred to is concluded.

Supplemental Question: Is there any incurring further cost on the flooding areas?

Supplemental Answer: I am afraid I do not have that answer and I am unlikely to have that answer until the Flood Risk Assessment is in the plan.

5.

Questioner: Elzbieta Kaptur

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: "My question relates to the Vaughan School expansion. As there are utilities on the allotments adjacent to the school and the allotments share the same title number as the school then why the proposed new build on the playing field can't simply be built on the allotments?"

Please be clear, we are not asking for a total re-build of the whole school we are just asking for proper consideration to be given to building the new part of the school on the allotments

rather than the schools playing field. Plans to re-furbish other parts of the existing school building could still go ahead. This would protect the schools only playing field and provide the opportunity for future growth on the allotments.”

Answer: The accommodation solutions for all schools that are part of Harrow’s Primary School Expansion Programme are provided within the existing school boundaries. This avoids the extra issues, costs and time involved in site acquisition and development.

The use of allotment land to achieve the expansion of Vaughan Primary School is also not being pursued for the following reasons, amongst others:

- Development on allotments is not acceptable from a planning policy perspective. This is in line with an unequivocal presumption against the loss of Open Space in the Core Strategy and the London Plan.
- The complexities and additional expense that the new build on the allotment land would entail. This would include but is not limited to:
 - a requirement for explicit approval by the Secretary of State for development on allotments;
 - the need for re-provision of the allotment pitches;
 - new site access (roads, paths, car parking, site fencing etc);
 - new modern service provision (sewers, drainage, surface water attenuation, water, gas, electricity, phone, internet etc.);
 - additional demolition of the infant block;
 - reinstatement of all the existing school including the hard landscaping to either allotment or soft play;
 - additional consultations and planning applications;
 - legal and planning fees to change the use of the allotment land, if this were possible.

The allotments and the school having the same title number does not change the position stated above. While it is legally possible to seek the necessary permissions from the Secretary of State to allow development, this would be contrary to

planning policy, would add additional costs and would not be achieved in the timescales required to expand the school.

Supplemental Question: My question is, apart from that we are all stressed because of that, that the school is going to be built and will spoil our view as well. Can you just answer, is there any other options or other places that Government can use, other than Vaughan School or have they ever been considered, other places than the Vaughan School, plus obviously the allotments?

Supplemental Answer: I understand and sympathise with your stress but we have considered other options and this was considered to be the best option.

6.

Questioner: Jack Welby

Asked of: Councillor Bill Stephenson (Leader of the Council and Portfolio Holder for Business Transformation and Communications)

Question: "Can the Leader of Harrow Council agree with Councillor Navin Shah who has changed his mind on a 10 storey high block of flats in Gayton Road and could you give us an update on the situation of this particular block because already, before the planning permission has been given, Fairview Estates have given eviction orders for residents of the flats?"

Answer: I think Mr Welby has extended the question originally submitted so I have not looked into Fairview Crescent

I agree with Councillor Navin Shah on many things, not everything. I did ask him to what you were referring, he was not sure.

So to talk about the site, the site consists of the Gayton Road Car Park and the former Gayton Road Library site which is owned by the Council and the flats which you are referring to, which are owned by a private company.

The previous administration had intended to develop this site and had indeed obtained planning permission for a high-rise, over-development for it. In our manifesto that we said during the elections, we made the following commitment:

That we would 'Immediately stop the Tories' high-rise over-development of the Gayton Road site and substandard replacement Leisure Centre, and will work to provide a state of the art Central Library and Arts Complex in the Town Centre'.

That is exactly what we have done. It is our land. We are not

proceeding with anything. We did what it says on the tin.

We continue to keep all council-owned sites under continuous review and in due course we will, of course, want to develop this site appropriately consulting with local residents and as far as I am concerned, that is the current position.

What Fairview do with their tenants is their issue and that is the current situation.

We own the site. We control it. We have to get planning permission obviously and we have made a guarantee that we will want to develop this site appropriately and we will want to consult the residents.

Supplemental Question: “How many units in the 381 flats are for social housing and is Harrow Council subsidising any flats for social housing?”

Supplemental Answer: I think this question probably refers to the development by the previous administration. Digging deep into my memory, I think it was 120, but as I have indicated we have no intention to go ahead with that development, so it is rather academic.

7.

Questioner: Prakash Thakkrar

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: “An Estate Agents Firm ... have a sign for sale for a 1.5 Acre plot situated on The Gardens adjacent to the underground railway tracks very near the school's (Vaughan School) entrance.

My questions are:

Have you considered buying this plot of 1.5 acres?

Answer: No consideration was made of purchasing this, or any other land, as the accommodation solutions for all schools that are part of Harrow's Primary School Expansion Programme are provided within the existing school boundaries. This avoids the extra issues, significant additional costs and delay involved in site acquisition and development.

For your information Compulsory Purchase Order (CPO) powers can only be considered if:

- Planning permission for the school has been obtained in respect of the land.

- The Council can demonstrate the availability of finance.
- Cabinet approve the making of a CPO order and
- The Secretary of State confirms this.

Supplemental Question: If you are saying that that particular place is not suitable for the expansion of the school, can the Council consider buying the piece of land please to increase the parking spaces for the parents who bring their children to the school?

Supplemental Answer: No.

8.

Questioner: Jeremy Zeid

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: “What measures, procedures and official accountability by officers, are in place to ensure that children in care who entered the system with no criminal records, keep that status until such time they are released from the system, and conversely how many children with no previous records have offended and gained criminal records whilst in care?”

Answer: Harrow Children and Families services co-located in Civic Centre. This is supporting the development of effective partnership working between Children’s social care services and Youth Offending Team (YOT).

There has been specific work to raise the awareness of children looked after (CLA) young people offending to understand these trends and patterns. The CLA service and YOT have established a partnership forum meeting with all staff in respective teams that takes place on a quarterly basis. This will help to review partnership working, initiatives to prevent offending and address re-offending for CLA using strategic performance information. A Children & Families protocol for working in partnership has also been established to support communication between all teams/service and YOT.

As part of the Looked After Children (LAC) review process, the independent Reviewing Officer (IRO) meets with the individual children and young people, their carers and key professionals involved to review the child’s care plan, within one month of the child coming into care, then 3 months and 6 months thereafter. Before the LAC review, the IRO individually meets the child or

young person on their own to ascertain their views and contribution to the LAC review meeting and care plan. In addition to focusing on education and health issues, this discussion will focus on all significant events including those relating to the risk of offending.

There is an already established Independent Reviewing Officers protocol that is triggered when a looked after child becomes involved with a critical incident. This protocol must be responded to by the team manager within 5 days, if this is not addressed, then the matter will escalate to the service manager to respond within 5 days. If the matter is still not resolved, the Divisional Director will be asked to respond. The purpose of the protocol promotes responsibility and accountability with all officers.

Central to good child care planning is the requirement that the allocated social worker for the looked after child ensures support and intervention from a range of services, including; independent visitors and mentors. In addition, the Access to Resources service will be launched in January 2013. This service will further provide support to prevent children from coming into care and support rehabilitation. The CLA service has a performance management information once every month. As from October 2012, the YOT manager is to contribute to this regarding data information of children in care offending.

In relation to the current group of looked after children, of the 158 children and young people in care at the moment, 8 children are known to YOT. Of those 8 young people, 6 have become known to the YOT after their period of care commenced. All 6 of these young people had, prior to entering care, demonstrated concerning and challenging behaviour and were beyond parental control.

Supplemental Question: If I may put a very quick supplement because we have children in care here and obviously, children on the Risk Register. How many girls at risk of female genital mutilation are on the register and what is being done to assure their safety?

Supplemental Answer: I cannot answer your second question. We had no notice of that.

GUILLOTINE REACHED (the following answers were circulated after the Council meeting, by written response, at the request of the Mayor).

9.

Questioner: Stephen Lewis

Asked of: Councillor Thaya Idaikkadar (Portfolio Holder for Property and

Major Contracts)

Question: “What is your view on the outcome of the saga regarding the development of the Whitchurch Pavillion and playing fields?”

Written Answer: Mr Lewis, I am sorry but I cannot agree with your use of the word ‘saga’.

There have been four cabinet reports and extensive public consultation with local residents since the commencement of the Whitchurch Playing Fields project in November 2008.

Although the process for selection of the Council’s preferred bidder and the wide ranging work by the Council and the Whitchurch Playing Fields Consortium, to engage with local residents to allay the concerns has been time consuming, I am confident that the outcome will result in fabulous new facilities for our community.

I am therefore pleased that the current administration has persevered with these proposals despite early difficulties and criticism and I am convinced that the proposal will become a hugely successful and well supported facility for and by the residents of the Borough, which will transform the Playing Fields from their current status of an effectively redundant 25 acre site over the last eight years.

The process has ensured that:

- (1) The best candidate for the development and operational management of the playing fields has been selected.
- (2) The serious concerns of the local residents have been openly debated in a public forum and will be safeguarded through the lease terms and the statutory Planning and Licensing processes.
- (3) With the time and dedication spent by officers, which will continue through the development process, Harrow will receive a sustainable, first class sports and leisure facility.
- (4) The terms negotiated with the Whitchurch Fields Consortium in the Service Level Agreement will provide for extensive, low cost access for disadvantaged and protected groups of the Community.

10.

Questioner: Chris Baxter

Asked of: Councillor Thaya Idaikkadar (Portfolio Holder for Property and Major Contracts)

Question: "When tendering for council services, do you believe that, alongside out-sourcing options, an in-house option should always be considered as part of every procurement exercise?"

Written Answer: This administration is committed to obtaining the best services possible for its residents at the most economic cost. We will therefore consider the various models of service delivery available and adopt the most advantageous for residents. Where there is an existing in-house service this will apart from exceptional circumstances be considered with other options. Where there isn't an in-house option then this will normally also be considered as an option.

11.

Questioner: Veronica Jenkins

Asked of: Councillor Bill Stephenson (Leader of the Council and Portfolio Holder Business Transformation and Communications)

Question: "Would the Leader please confirm which Portfolio Holder received the Petition submitted at the last Cabinet meeting, from residents of Durley Avenue, Pinner."

This question was withdrawn.



Community Safety Plan

2012 – 2015



Foreword by Borough Commander; Chief Executive and Portfolio Holder for Environment and Community Safety

Welcome to Harrow's Community Safety Plan covering the three years 2012/13 to 2015/16.

In contrast to previous Community Safety Plans, which have concentrated mainly on reducing crime, disorder and anti-social behaviour, this Plan has widened its horizons to include, alongside crime reduction, other aspects of safety including safeguarding vulnerable adults and young people, addressing domestic violence, hate crime and community tensions and helping people recover from abuse of drugs and/or alcohol.

In the last twelve months, significant progress on joint working has been achieved with the operational launch of the Multi-Agency Safeguarding Hub (MASH) which uses the data of all relevant organisations to help make the right decisions about keeping children safe and trials are now taking place to extend the MASH to cover vulnerable adults. We have also launched an Integrated Offender Management Scheme (IOM) to help ex-offenders at risk of committing further crime to instead find a home, work or training and support to stay out of trouble. Both of these schemes have the potential significantly to reduce harm to individuals and the community. We have also launched a 24 hour helpline for victims of hate crime with Stop Hate UK. Stop Hate UK provide an accessible and independent reporting and support service for victims of hate crime

As well as these specific schemes, community safety continues to be achieved through joint working, sharing information and data and organisations co-operating to achieve common goals. While each partner has their own immediate priorities, these combine to achieve increasing safety in Harrow.

This Community Safety Plan is also the first to be written with an elected Commissioner for Policing and Crime in place. In London, this role has been added to the responsibilities of the Mayor of London. The Commissioner's powers are not very different from those that the Mayor and the GLA undertook as the Metropolitan Police Authority and it is as yet too soon to identify any changes in strategic direction. However, during the next year, the Mayor's Office for Policing and Crime (MOPC) will develop its own voice and priorities which will influence local policing priorities and style.

Policing in London in the summer of 2012 will take on the additional responsibility of managing safety in London during the Olympics and Para Olympics, including amongst the anticipated surge of visitors to the Capital.

Community Safety is about:

Police action to detect and arrest offenders, to deter crime, to give advice and share information to keep people and property safe and to reassure communities that their safety concerns are addressed,

Council action to safeguard vulnerable people – children, young people and adults, to provide activities that engage young people and divert them from crime and anti-social behaviour to reduce offending and re-offending, to keep the Borough clean and tidy, to operate public CCTV, to intervene to reduce anti-social behaviour, to reduce domestic and sexual violence and to reduce hate crime and community tensions;

Probation action to protect the public by supervising offenders in the community and to reduce re-offending, and to lead on the operation of the Integrated Offender Management scheme

NHS action to provide substance misuse education and treatment services, and mental health services;

Fire Brigade action to help people stay safe from fire and other emergencies, in the home, at work and in London's other buildings, to respond to emergencies, to make sure London is prepared for a major incident or emergency; and to take urgent enforcement action when we believe public safety is being put at risk in buildings;

Voluntary and Community Sector action to support individuals at risk of offending, communities at risk of crime and anti-social behaviour and victims; and

Individual action to become a Neighbourhood Champion, to take responsibility for your own behaviour and actions, to report crime and anti-social behaviour and to support each other if threatened by crime.

As this range of activity shows, community safety is a complex series of issues that cannot be successfully tackled by any agency working alone so representatives of all of the groups listed meet together as the Safer Harrow group to plan how best to reduce crime and anti-social behaviour. Our ideas and actions for 2012/13 and the two years beyond are set out in this plan.



Dal Babu
Borough Commander,
Harrow Police



Michael Lockwood
Chief Executive
Harrow Council



Councillor Phillip O'Dell
Portfolio Holder, Environment and
Community Safety
Harrow Council

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Introduction

Early in each new calendar year, the Police and the Council review the crime figures for the previous 12 months and assess which crime types are of most concern. The findings are brought together in a Strategic Assessment and are subject of consultation with the Residents' Panel to check that the statistical data mirrors residents' experience. The Community Safety Plan then sets out how the partnership intends to respond to the local crime landscape. This Community Safety Plan covers the period 2012/2015 although in much more detail for 2012/13 than the later years as the plan will be refreshed each year to reflect up to date conditions.

This Plan, however, goes much further than its predecessors in taking a wide view of what constitutes community safety and extending the Plan's remit to include Adult and Children's safeguarding, domestic violence, hate crime and community tension monitoring and helping people recover from abuse of drugs and/or alcohol. It also includes several case studies showing the impact of action taken in the last year. In future years, the Plan will continue to expand to include public health messages which contribute to personal and community safety and well-being.

This Plan also sets out development areas for the Community Safety Partnership, which locally is called Safer Harrow, to ensure it remains a strong and sustainable partnership with a strategic focus and effective performance management. It also looks at the developing relationship between Safer Harrow and the Health and Wellbeing Board, which is also a partnership body, concerned primarily with health and social care but also with other services that contribute to wellbeing. Community Safety in its widest sense is a key component of wellbeing.

Purpose of the Safer Communities Plan

This Plan describes the work of the Council, the Police and partner agencies to reduce crime and create safer and stronger communities across Harrow by:

- Identifying priority community safety issues and geographical areas based on our strategic assessment;
- Working in partnership with other organisations to keep the Borough clean, green and safe;
- Supporting and protecting people who are most in need;
- Communicating with and involving people in Harrow to address the issues that matter most to them;
- Mainstreaming community safety activity within the Council's service plans and those of partner agencies; and
- Leading and supporting Safer Harrow in delivering safer communities.

The nature and future of Safer Harrow

What is Safer Harrow?

Safer Harrow is the name of the Community Safety Partnership that was set up following the 1998 Crime and Disorder Act. Partnership approaches are largely built on the premise that

no single agency can deal with, or be responsible for dealing with, complex community safety and crime problems and for improving wellbeing and that success will only come through joint working.

The Partnership comprises:

- Harrow Police
- Harrow Council
- Harrow Probation
- Voluntary and Community sector organisations
- Harrow Fire Service
- NHS Harrow
- The Mayor's office for Policing and Crime (MOPC)
- A representative of Brent and Harrow Magistrates' Court

Partners bring different skills and services to Safer Harrow. The police and the probation service, who both have as their core role the reduction of crime and disorder, play a very active role in Safer Harrow while for other partners, the crime and anti-social behaviour aspects of community safety are less central issues compared with safeguarding and wellbeing. However, all contributions are important and the range of different contributors to improving community safety in Harrow means that extensive coordination is needed. This is reflected in number and specialisation of the co-ordination and strategy groups through which Safer Harrow addresses its concerns.

In terms of formal structure or governance, Safer Harrow comprises a number of forums that facilitate coordination and delivery.

- At a strategic level, community safety is coordinated by the **Safer Harrow**, which includes senior managers from the partner agencies and meets quarterly;
- At an operational level, a high level body called the **Joint Agency Tasking and Coordinating Group (JATCG)** meets monthly to discuss operational issues that are persistent, topical or impact on large numbers of residents.
- The **Anti-Social Behaviour Action Group (ASBAG)** meets monthly to tackle lower level anti-social behaviour problems of individuals or of particular areas.
- The **Early Intervention Panel (EIP)** commissions interventions with individuals that are designed to prevent entry into the criminal justice system.
- **Integrated Offender Management (IOM)** is a process which brings together most of the Safer Harrow agencies to support those at risk of re-offending to stay out of trouble;
- **Multi-Agency Public Protection Arrangements (MAPPA)** targets the most serious sexual and violent offenders and comprises Police, Probation and the Prison Service.
- The **Drug Action Team (DAT)** commissions treatment, education and preventative services for people with substance misuse problems
- The **Multi Agency Risk Assessment Committee (MARAC)** co-ordinates work to address repeat victimisation from domestic violence
- **Domestic Violence Forum** – partnership group for practitioners
- **Hate Crime. and Community Tension Monitoring Forum** meets every two months and is a partnership forum composed of representatives from the community and voluntary sector, police, and council departments
- **Harrow Hate Crime Advisory Group (HHCAG)** works to increase the transparency and accountability of the police and council in their investigation of hate crime and promote confidence and resilience in the overall service

- **Harrow Hate Incidents Panel (HHIP)** works to reduce repeat victimisation and ensure the best possible outcome for victims and witnesses
- **The Multi-Agency Safeguarding Hub (MASH)** is operational everyday to respond immediately to reports of potential harm to vulnerable young people and, it is hoped, adults.
- A number of other agencies have a duty to cooperate including Children's Services and the Youth Offending Team

The Health and Wellbeing Board has similar status to Safer Harrow and has direct responsibility for developing a Health and Wellbeing Strategy that guides the commissioning of health and social care services, including a range of activities that also support the ambitions of Safer Harrow. Working arrangements between the two organisations are being developed to make sure that the objectives and programmes of both are complementary.

These formal groups are supported by practitioner groups that share information and good practice, groups that bring the experience of victimisation or public concerns to the Partnership and regular contact between and within agencies.

Safer Harrow is only able to influence certain community safety and criminal justice services that are delivered locally. Prisons and courts for example, are managed and administered centrally.

Financial savings from partnership interventions will often not return to organisation making the investment and sometimes not to organisations within the partnership at all such as the Prison Service and Courts Service who can benefit financially from Safer Harrow's interventions.

Funding

The Government's public sector spending plans involve significant reductions in funding for all the agencies involved in criminal justice over the next three years. How these reductions will impact on the ability of individual agencies to support the community safety agenda will only be known as detailed budgets are drawn up year by year. However, for the current year, some examples of the decisions already made give an indication of the impact that changes to funding will have.

For the Police,

- The overtime budget for Harrow has been reduced from £495,000 to £428,000 for the policing year 2012/13 a reduction of 14.6%.
- Working with the LA we have identified LAA money from historical projects which was not spent and we are seeking to effectively use these funds for local initiatives.
- We have submitted an application to MOPAC to secure the £50,000 Community Safety Fund with an additional application seeking to spend £18,000 carried over from last year.

The Council has made significant savings in recent years. In the period 2007/08 to 2009/10 these totalled £38m. As part of the budget approved last year, £19m of savings were identified for 2011-12 with a further £12.3m for future years. Over the three years of the Medium Term Financial Strategy now proposed, an additional £18.6m of savings has been identified.

Making savings on this scale is extremely challenging, but Directors have focussed on ensuring that further changes to service delivery models are innovative, robust and deliverable

and minimise the risk to vulnerable people or service failure. The extent of the cuts to public sector spending and the Government's agenda for public service reform mean that the Council is thinking about its future shape and size; how we deliver services in collaboration more with partners and residents and bring about a new relationship that has the potential to unlock major savings.

The NHS nationally has a cash budget increase of 0.1% but has a target to save £20bn over the next 4 years. Locally, the Primary Care Trust has a deficit which requires compensatory spending reductions of 15% in all services.

The budgets of the Police, Probation and Fire Services are focused exclusively on community safety work. In addition, significant mainstream resources from Harrow Council, and the Primary Care Trust, contribute towards reducing offending behaviour in the borough

For the fire service, the Mayor's budget targets indicate that total savings of £64.8 million will need to be made over 2013/14 and 2014/15. The London Fire Brigade (LFB) is the early stages of preparing the fifth London Safety Plan which is the main mechanism the LFB uses to make changes to the way the fire and rescue service is organised in London. The Plan will set out priorities and how services will be delivered from April 2013. The Plan will be subject to public consultation from November 2012.

Strategic Assessment

The Strategic Assessment is produced by Safer Harrow. It summarises the crime and disorder which took place in Harrow between October 2010 and September 2011.

The purpose of the Strategic Assessment is to increase understanding of crime and disorder issues in the borough and to inform decision making around how they should be addressed. As a high level summary, the Strategic Assessment does not discuss any crime or disorder type in detail, but serves to highlight the salient issues and trends. It also sets out a series of recommendations for action. More detailed analysis is regularly undertaken by the Partnership and is used to inform action and to evaluate interventions.

In June 2011, the Home Office removed many of the regulations on many aspects of Community Safety Partnerships (these are the statutory multi-agency bodies set up to tackle crime and anti-social behaviour). It is no longer a statutory requirement to produce a Strategic Assessment. However, it was felt that a summary of crime and anti-social behaviour in Harrow would be help the Partnership identify Harrow's identify key problems and set priorities.

Level of total crime in Harrow, neighbouring boroughs and London

A total of 13,999 crimes (often referred to as total notifiable offences (TNO)) were recorded in Harrow in 2011. This is the fifth lowest total of London's 32 Metropolitan Police boroughs. Once the population size of the boroughs is taken into account, Harrow's crime rate of 61 crimes per 1000 population puts it second lowest with only to Bexley, which recorded 55 crimes per 1000 population, with a lower crime rate. The borough with the highest level of crime in London, was Westminster, but as Westminster has unique characteristics as a leisure, transport and business hub, its rate of over 300 crimes per 1,000 populations it is not typical or directly comparable. Camden recorded the second highest crime rate with 171 crimes per 1,000 populations.

The crime rates in Harrow's neighbouring boroughs were 108 per 1,000 population in Brent; 100 per 1,000 population in Ealing; 89 per 1,000 population in Ealing; and 78 per 1,000 population in Barnet.

Change in level of crime in Harrow, neighbouring boroughs and London

The total number of crimes in Harrow fell by 9% in 2011 compared to 2010, this compares to a 1% reduction in London as a whole. This is the third largest reduction of London's 32 Metropolitan Police boroughs. Only Bexley (14%) and Newham (9%) recorded larger reductions.

Three out of four of Harrow's neighbouring boroughs recorded an increase in the level of crime in 2011. Hillingdon and Barnet both recorded moderate increases, Brent recorded a 6% increase and Ealing recorded a 6% reduction.

What crimes and ASB have gone up?

While, there was a 9% reduction in overall crime in 2011, several categories of crime showed increases during 2011:

- Personal robbery increased from 423 to 587 (39%).

- Residential burglary increased from 1744 to 1988 (14%). The most recent figures indicate the residential burglary is starting to decrease

- Theft of cycles increased by 24%

- The number of gun crime offences increases by 5%

- Knife crime increased by 16% (196 offences between April 2011 to February 2012)

- Serious youth violence increased by 12% in the financial year to date to February 2012 compared to the previous period up February 2011. It should be noted that the level of serious youth violence in Harrow is still one of the lowest of London boroughs.

What crimes have gone down?

While attention and resources are more likely to be directed to crime types that have gone up, it is interesting and useful to see which crime types fell in 2011

- Violence against the person fell by 16%; this includes all major assault categories (common assault to wounding) and harassment. There were also no murders. (Only three other London boroughs recorded no murders in 2011. Brent, Ealing and Barnet recorded four to five murders each)

- Rape fell from 63 to 57 offences (10%) and domestic violence by 8% to 1,161 offences

- Theft of a vehicle fell by 10% and theft from a vehicle by 17%

- Theft from shops fell by 24%

- Overall criminal damage fell by 12% - including all major type of criminal damage

- Racist and religious hate crime fell by 28%

Where crime and ASB takes place

Every part of the borough is impacted on by crime in some way, but there are several areas where there are higher concentrations of crime. These areas are often referred to as 'hotspots'. Four of these key hotspots are briefly discussed below.

Harrow Town Centre/Greenhill Ward

With 1707 recorded offences in 2011, Greenhill Ward continues to have the highest crime of any of Harrow's 21 wards. As well as being an area of heavy footfall, which in itself is likely to be associated with a higher volume of crime, there are three notable crime generators:

- a cluster of bars and pubs associated with violent crime in the late evenings and weekends
- a heavy concentration of retail outlets associated with theft related offences in mornings and afternoon
- a major transport hub associated with ASB and other offences

The level of crime in Greenhill ward has decreased drastically in recent years. Overall the number of offences in Greenhill ward fell by 358 (18%) in 2011. This is well over one quarter of the total reduction in crime in Harrow in 2011. Since 2008, crime in Greenhill ward has fallen by 28%.

In terms of changes in the number of specific crime types in 2011

- Violence against the person, including all assaults, fell by 102 offences (23%)
- the number of personal robbery offences increased from 57 to 68 offences
- Residential burglary decreased by one offence to 144
- Theft from shops fell from 326 to 216 offences (34%)
- Criminal damage fell from 137 to 111 offences (19%)

Much of the reduction in offending levels in Greenhill ward and the Town Centre is likely to be due to various partnership interventions, in particular the Town Centre Team and the Safer Transport Team.

Wealdstone Corridor

This area covers the areas around George Gange Way in the west of Marlborough Ward and continues north into the High Street in Wealdstone Ward. High levels of crime are recorded in both these wards. This area has been associated with youth violence including a group of young people associated with a gang. Crime in Wealdstone Ward fell by 10% and in Marlborough Ward by 14% in 2011.

However, crime in Marlborough ward increased in 2009 and 2010, making the number of crimes in 2011 (904 offences) higher than the 808 offences recorded in 2008. There was a substantial drop in theft from vehicle offences in Marlborough in 2011, from 192 offences in 2010 to 64 offences in 2011. Conversely, personal robbery increased in Marlborough from 25 offences in 2010 to 56 offences in 2011. There was a similar pattern in Wealdstone Ward with a substantial decrease in theft from vehicle offences and an increase in personal robbery. Relatively high levels of serious violence are also recorded in these wards. There were 33 wounding offences in 2011.

Edgware

Edgware experienced the sixth highest level of crime of Harrow's 21 wards in 2011. This ward also experiences the highest levels of environmental crime in the borough such as fly-tipping and litter. These low level problems can contribute to a lack of commitment to an area and a careless attitude to keeping the area tidy and can contribute to low level offending.

South Harrow

South Harrow straddles three wards: Harrow on the Hill, Roxeth and Roxbourne. Some of the crime and disorder problems around South Harrow are associated with young people hanging around after school and later on in the evening. South Harrow is also a major transport hub, with a busy underground station and 10 bus routes that pass through.

There has also been an increase in the spread of hate offences in the South Harrow area in 2011/2012. There are two clusters in South Harrow. The first is to the west of the junction between Northolt Road and Roxeth Hill, around the Grange Farm Estate. The second cluster is the area to the West and South of South Harrow offences took place between the Rayners Lane Estate and Eastcote Lane Estate as well as around Northolt Road

Who commits crime and ASB in Harrow?

Crime is committed by a variety of types of people in Harrow, but some groups are more likely to offend than others. For most crime types, offenders are disproportionately young and disproportionately male. White residents are the ethnic group most likely to offend, but once that group's size in relation to the borough population is taken into account, their offending levels are approximately proportionate. In relation to their number in the population, Asians have low rates of offending and Black residents higher rates of offending. However, the profile of offender varies considerably between crime types, with, for example, robbers tending to be much younger than burglars.

Victims of crime in Harrow

Victims are more demographically varied than offenders in terms of age, ethnicity and gender. Younger people are more likely to be victims than older people, but the relationship between age and risk of victimisation is relatively weak. Males and females have similar levels of victimisation, but these vary between offence types, with, for example, males more likely to be victims of violence in general, but females more likely to be victims of domestic violence.

Summary of Harrow's crime and disorder problems

Performance: 2007/08 – 2010/11

The table below summarises changes in the level of crime and other criminal justice indicators from 2007/08 to 2011/12.

Crime and anti-social behaviour indicators

Crime/ASB type	2007/08	2010/11	2011/12	Change 10/11 to 11/12	Change 07/08 to 11/12
Total crime	14074	14968	14112	-856	38
Common assault	660	832	652	-180	-8
Personal robbery	469	398	668	270	199
Residential burglary	1541	1798	2080	282	349
Theft from vehicle	1768	1637	1590	-47	-178
Theft of vehicle	548	364	331	-33	-217
Snatch and pickpocket	537	499	311	-188	-226
Criminal damage		1569	1476	-93	n/a
Young first time entrants	164	86	92	6	-72
Offences committed by young people	564	515	380	-135	-184
Problem drug users in treatment	391	387	418	31	27
Incidents recorded on buses	1346	911	975	64	-371
Racist offences	117	227	195	-32	78
Domestic violence	920	1270	1144	-126	224
Incidents on trains and tubes	781	491	370	-121	-411

In 2011/12, there were 14,112 crimes in Harrow (officially referred as total notifiable offences (TNOs)) compared to 14,986 offences in 2010/11, a decrease of 5.7%.

Recent performance and trends

The Police set targets for reductions in particular crime types and also targets for the rate for resolving those crimes. Resolving is measured by the Sanction Detection rate which means the number of offences for which a judicial outcome is achieved such as a conviction or a caution.

Fire Service Performance

The Fire Service's priority is to make people safer in their homes and within their communities. By actively engaging with London's communities they are able to inform and educate people in how to reduce the risk of fires and other emergencies. The Service believes that by empowering individuals with knowledge and skills regarding; preventing, detecting, and escaping from fire, they will make informed choices and decisions which will improve the safety of themselves, those they live with, and others in their community.

While the Service wants to make everyone in London safer, their analysis shows that some people are more vulnerable to fire risks than others. Therefore they prioritise work to help these people first. Fires are analysed by the type of property they occur in and the cause of the fire, and from this work, fire prevention priorities are identified. The places and people who are most at risk are also identified through using a range of social, demographic and geographic data. Preventative methods are targeted most towards these higher-risk people and places.

Although there has been a significant decline in the number of fire deaths and injuries over the past decade, the Service continually strives to bring these figures down even further. To help achieve this, a range of targeted schemes and initiatives are delivered with the intention that their combined effects will bring about a greater reduction in fires, fire deaths and injuries. The main method of preventing fires in the home is home fire safety visits programme (HFSVs). These visits are targeted at those most at risk from fire and are used to provide residents with individually tailored fire safety advice and, where necessary, install a smoke alarm.

Within the 2011/2012, crews responded to 2059 incidents within the borough of Harrow. Of these 477 incidents were fires and 511 were special services such as flooding, road traffic collisions and lift releases.

Performance Indicators	11/12 Target	11/12 Actual	12/13 Target
Fires in the home (Accidental)	127	127	126
Fire in non-domestic buildings (Accidental)	48	42	48
Fires – Rubbish (deliberate & unknown motive)	93	35	92
False alarms from automatic systems (Non Domestic)	539	553	530
Shut in lift releases	36	41	38
Time spent by station staff on community safety	10%	13%	11%
Home fire safety visits carried out	781	946	817
% of Home fire safety visits to priority homes / people	65%	77%	70%
1 st Appliance – Average arrival time to incidents in Harrow	6 minutes	6:41	6 minutes
2 nd Appliance – Average arrival time to incidents in Harrow	8 minutes	9:51	8 minutes

Case Studies

It is useful to consider the impact achieved by actions taken by the Council and the Police to address community safety concerns. It is difficult to attribute a change in the crime rate or in anti-social behaviour to a particular cause when a wide range of factors influences individuals. However, case studies can show direct outcomes of particular initiatives and give an indication of their value. The following case studies highlight two particular projects and include specific outcomes that would not have been achieved without the investment in preparing and following through with initiatives. Clearly, there are continuing outcomes from both of these projects in addition to the impact highlighted.

Action by Neighbourhood Champions

Two neighbourhood champions in adjoining streets raised a concern about a large property that had been divided up and was being rented out to a large number of individuals.

Neighbours were experiencing problems of noise, disorder and had suspicions that drug dealing was taking place. These problems had been going on for an extended period.

After the input from the neighbourhood champions, an investigation took place which involved the Police and Council service teams including planning enforcement, private sector housing, anti social behaviour and environmental health. A number of enforcement actions were put in place including carrying out a Police drugs raid. The landlord was contacted and advised on implementing proper systems for controlling a property of this type.

Following the input from the services this has become a well run property with a permanent management presence. The problems which had previously been experienced have ceased, as has the disruption to the community.

Distribution of Smartwater

2010-11 and 2011-12 have seen the roll-out of a major crime reduction initiative in Harrow, the free on-demand installation of Smartwater to households in Harrow. This has seen the Police visiting approximately 30,000 homes across the borough, installing Smartwater and offering crime prevention advice and information to residents.

Smartwater allows property to be tagged with an invisible mark which can be tracked back to the individual household where it was installed. This means that if the Police find this property at a later date, they can conclusively prove that the item is stolen- and exactly where it was stolen from, making life very difficult for would-be burglars.

The impact of Smartwater on burglary trends will be evaluated in a detailed study which will be carried out in the 2012-13 year but it is already apparent that the project has had a positive impact – over the time when the home visits were being carried out, surveys have shown public confidence in the Police and Council's crime reduction work increasing from below 30% to over 80%.

Suggested priorities for Safer Harrow in 2012/13

With limited resources to tackle crime and disorder problems, Safer Harrow inevitably has to prioritise certain offence types over others. From the analysis of crime and disorder problems in the Strategic Assessment and the performance information, the following crime and ASB types are suggested as priorities:

Residential burglary: This is a high volume crime that impacts significantly on households and communities. There were 2080 offences in 2011/12 compared to 1798 offences in 2010/11, an increase of 16%.

Robbery and Snatch: There were 668 personal robberies in 2011/12, a 68% increase on the 2010/11 figure of 398. The figures for snatch show a reduction to 311 offences in 2011/12 compared with 499 in 2010/11 a decrease of 38%. The combined figure shows a 9% increase in 2011/12 over the 2010/11 total.

Anti-social behaviour (ASB): Anti-social behaviour in this context means low level nuisance behaviour and degradation of the environment, including incidents such as fly-tipping and graffiti. Residents are far more likely to experience behaviour such as young people hanging around and graffiti than serious violent crime. ASB is also particularly suited to a local

response as the problems differ considerably between geographical areas and local practitioners are likely to know more about the problems and the best solutions.

Serious youth violence: Despite an overall reduction in offending by young people, including violent offences, there are indications that serious youth violence has increased in 2011 in Harrow. Evidence for this comes from recorded police data as well as intelligence from front-line practitioners. There were 104 offences of serious youth violence in Harrow between April 2011 and February 2012, a 20% increase on the same period in 2010/11. Similarly, both Ignite and the Positive Action Team report increased levels of concern about serious youth violence in Harrow.

The full Strategic Assessment is available from the Council and is on the Council's website.

Consultation with Harrow residents and stakeholders

Consultation takes place on what community safety issues should be prioritised and what actions should be taken to address particular issues.

As part of the Community Safety Plan, it is helpful to consult residents on what they think the priorities should be. The agencies that make up Safer Harrow engage in a variety of methods of consultation to ensure that residents' views are reflected in what they prioritise and how they tackle crime and ASB problems.

The Residents' Panel

The Residents' Panel is a sample of approximately 1,200 Harrow residents aged 18 and over. The Panel is representative of the population of the Borough by ethnicity, age, religion, disability, geographical spread, employment status and housing tenure. The Panel was asked about three main issues in the spring based on the findings of the Strategic Assessment. These were:

- how safe people felt in their local area both after dark and during the day
- to what extent the Police and other public services seek people's views about anti-social behaviour and crime; and
- to what extent people saw particular types of anti-social behaviour as a problem

In answer to the first question, 51% of respondents felt very or fairly safe outside in the local area where they live after dark and 82 % felt very or fairly safe outside in the area where they live during the day. There were variations across the Borough with the wards feeling safest in answer to both questions being Pinner and Pinner South and the wards with the lowest scores included Roxeth, Roxbourne and Wealdstone.

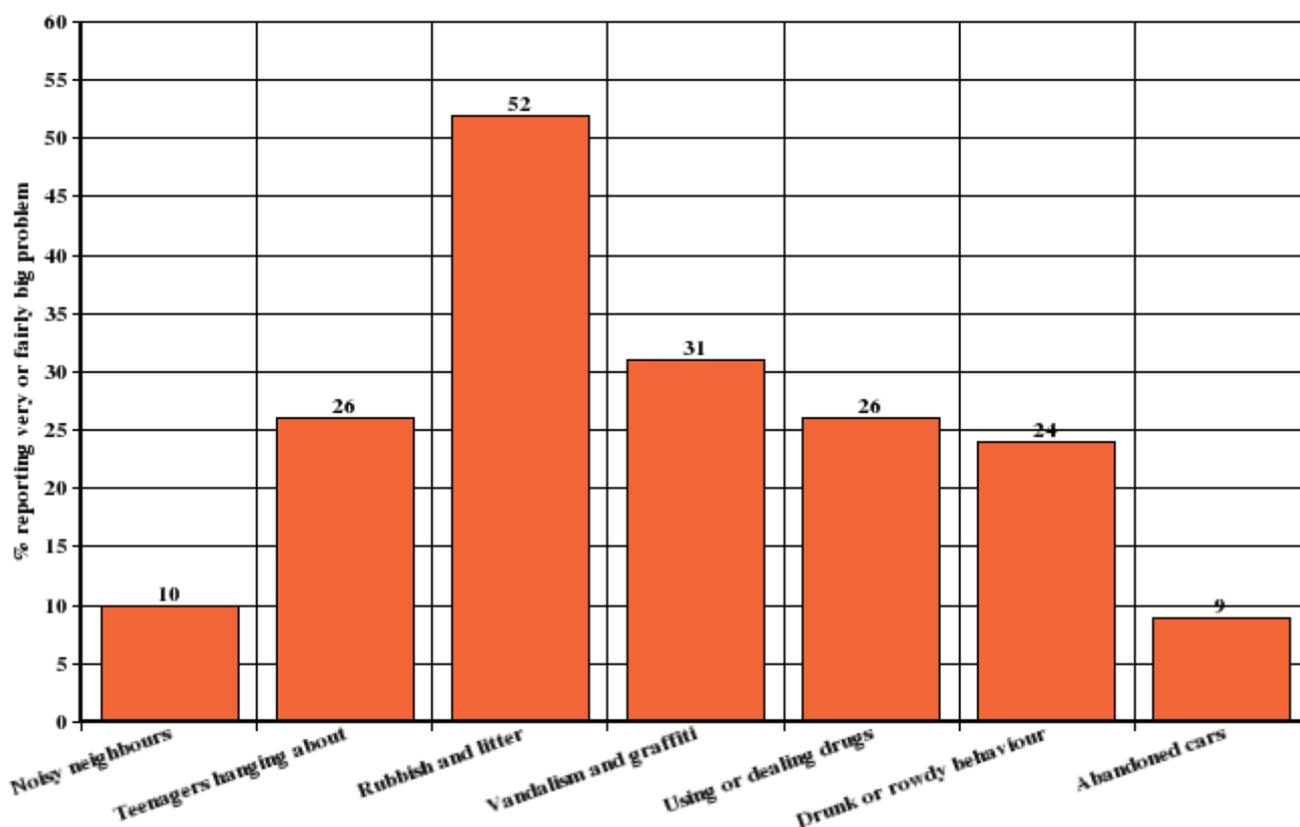
With regard to the second question, 58% agreed or strongly agreed that their views were sought. There were significant fewer people agreeing with the proposition in Harrow Weald

The Panel were also asked whether a range of anti-social behaviours were a big problem or not much of a problem at all. The headline results for those reporting that each type of anti-social behaviour was not much of a problem or not problem at all are shown in the following table.

There were variations in the response by ward with the most significant being:

Type of ASB	Big or very big problem outliers	Not much or no problem outliers
Noisy neighbours	Queensbury Wealdstone	
Teenagers hanging about	Harrow on the Hill Roxbourne Roxeth Wealdstone	Pinner Pinner South
Rubbish and litter	Greenhill Wealdstone Roxbourne	Pinner Pinner South
Vandalism or Graffiti	Harrow on the Hill Roxbourne	Kenton West
Using or dealing drugs	Roxeth Marlborough Wealdstone	
Drunk or Rowdy behaviour	Greenhill	
Abandoned cars	Wealdstone	

Anti-social Behaviour



Form of Anti Social Behaviour
Residents Panel March 2012

The results of the consultation are very similar overall with the response last year and do not indicate that there should be any changes to the priorities arising from the data collected for and analysed in the Strategy Assessment.

The Public Attitudes Survey

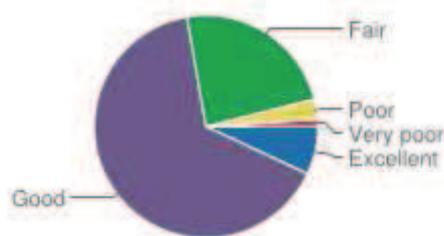
The Public Attitudes Survey, which a high quality survey commissioned by the Metropolitan Police, and produced data for each borough, suggests that the Police are concentrating on issue that matter to Harrow residents. Almost 80% of respondents thought that the Police understood issues that affect their community and 70% thought that the Police deal with things that matter to people in their community. Overall 85% of residents were satisfied

Confidence Results - Harrow

The MPS Public Attitude Survey asks residents of the following questions to measure confidence in local policing.

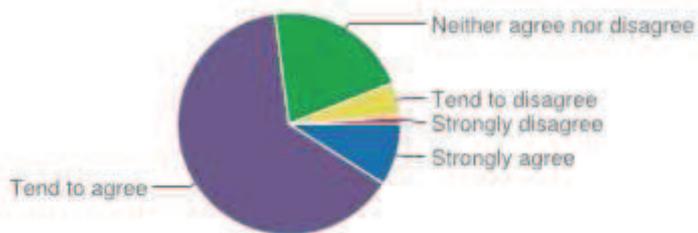
The results below represent Harrow resident's views.

Taking everything into account, how good a job do you think the police in this area are doing?



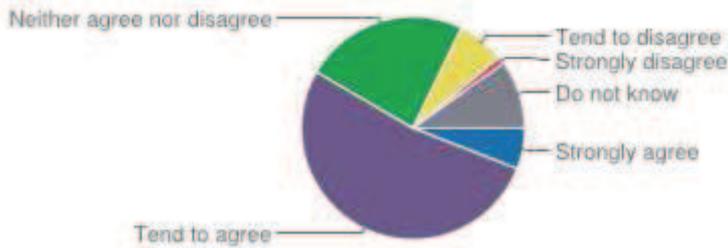
- § Excellent - 7 %
- § Good - 66 %
- § Fair - 24 %
- § Poor - 3 %
- § Very poor - 1 %

To what extent do you agree that the local police are dealing with the things that matter to people in this community?



- § Strongly agree - 9 %
- § Agree - 64 %
- § Neither agree nor disagree - 21 %
- § Disagree - 5 %
- § Strongly disagree - 1 %

To what extent do you agree that the police and local council are dealing with the anti-social behaviour and crime issues that matter in this area?



- § Strongly agree - 6 %
- § Tend to agree - 53 %
- § Neither agree nor disagree - 24 %
- § Tend to disagree - 7 %
- § Strongly disagree - 1 %
- § Don't know - 10 %

The PAS is representative of the population of London as a whole and is in line with census data in terms of ethnicity, age and gender. However, as with all surveys, some groups may be underrepresented. The PAS under samples White respondents aged 15-34 in some boroughs. However, the difference between the sample and the census data could, at least in part, be due to the changes that have taken place to the population of London since the census was taken.

Care must be taken when comparing the Metropolitan Police Service results with other force results, particularly as other forces are using different methodologies to capture their data.

Priorities and actions to address them

Residential Burglary

Residential burglary is theft, or attempted theft, from a residential building where access has not been authorised.

The Police and their partners intend to commit considerable resources to reducing residential burglary and other acquisitive crime over the next three years. The items outlined in this section are Partnership approaches rather than internal activities of Harrow Police, where much of the impetus for reducing residential burglary comes from.

The Partnership activities over the next three years that will impact on residential burglary and other acquisitive crime include:

- Continue the Smartwater initiative that offers free property marking to all households in the Borough that ask for it. The initiative is intended not only to deter burglary at each property at which the marking system is deployed but, through mass distribution, to make Harrow an unattractive place for burglars to operate in.
- Consider funding for locks and security for victims aged over 65.
- Build on communication activities around prevention as a very high percentage of burglaries in Harrow involve obtaining access through unlocked doors and windows – and particularly those adjacent to single story extensions.

- Continue the emphasis on crime prevention by working closely with Housing and the Registered Social Landlords to make properties more secure.
- Crime reduction communication campaigns in known hotspot areas
- Provide crime prevention advice to the owners of vulnerable properties in the hotspot locations
- Continue with high-visibility Police patrols in known hotspot areas to deter offenders, as well as to gather intelligence about individuals in the area likely to be committing these offences
- Actively target known offenders and hotspot areas through pro-active operations, to reduce the number of offences
- Continue to work with other boroughs including Hertfordshire and Brent to gather intelligence about possible offenders committing burglaries in Harrow
- Target handlers of stolen goods to restrict the sale of stolen property

Commentary

The Council and the Police have committed significant resources to the SmartWater initiative. To date, around 30,000 SmartWater kits have been installed free of charge in residential properties in the Borough. The kits have been offered to the owners of properties that have been burgled and properties near to those that have been burgled and in hot spot areas although any resident can request a kit.

The kits have not yet been in place long enough to allow a definitive judgement on the effectiveness of SmartWater deployment but further analysis will be undertaken throughout the year.

The Police recently held a multi-borough seminar to identify good practice across a number of areas including residential burglary and a number of ideas in use in other parts of London are being evaluated

Robbery and Snatch

Robbery is the crime of taking or attempting to take something of value by force or threat of force or by putting the victim in fear. Snatch is taking or attempting to take something of value by applying force to the object rather than the person from whom it is taken. Snatch figures will be included in the robbery totals from now on.

Robbery and Snatch are often opportunistic crimes and can occur in any location although in Harrow, the hot spots are areas with high numbers of pedestrians, especially the Town Centre.

The age profile of both offenders and victims are broadly similar - over half the suspects are aged between 15 and 19 and the next highest age ranges are 20-24 and 10-14. Similarly, the highest number of victims come from the 15-19 age group with the 20-24 and the 10-14 year old groups next. The age of victims however, extends up through all the recorded ranges. Suspects are overwhelmingly males whereas victims are only marginally more likely to be male.

As well as high visibility patrolling, the most effective action is to reinforce community safety messages relating to robbery and snatch such as:

- Be alert and aware of your surroundings - planning your journey ahead so you know where you are going helps you to appear confident.
- If you can, avoid walking alone at night. Steer clear of shortcuts that take you through secluded or poorly lit areas such as parks and alleyways.
- If you are carrying a bag make sure clasps or main zips face inwards. Keep keys in your pocket. Never carry large amounts of cash. If confronted by a robber or snatch thief you should surrender your property without a fight - your safety is more important than your property.
- If physically attacked, shout loudly to attract attention of others and run away.
- If you suspect someone is following you, check by crossing the street - cross several times until you feel safe again. If necessary go to the nearest place where there are other people, like a shop or pub and call the police - avoid using phone boxes. This is why planning your journey is important.
- You may want to consider investing in a personal attack alarm. Make sure it is easily to hand so you can use it immediately to draw attention to yourself and hopefully scare off the attacker.
- If you are heading somewhere unfamiliar let someone know where you are going, your planned route there and when you expect to return.
- If you are going home, have your keys ready so you can let yourself in quickly.

Commentary

The proceeds of robbery and snatch tend to be cash, phones and other small electronic devices which have a ready market which is not easy to track or trace. This precludes the intelligence-led approaches that can be successful in making burglary more difficult. The new Integrated Offender management scheme may prove to be effective in targeting known robbers and burglars although it will be unable to support those living outside Harrow which applies to a significant proportion of burglars arrested here. .

Anti Social Behaviour

Many residents in Harrow experience ASB at some point. This could be fly-tipping, graffiti, litter, noise, nuisance neighbours, vandalism or youths hanging around. For some residents, levels of ASB can have a significant adverse impact on their quality of life. The partnership has a wide range of tools at its disposal for tackling ASB and intends to continue to prioritise ASB.

Some of the key partnership actions over the next three years include:

- Continue the Harrow Weeks of Action. These are multi-agency week-long events which focus on a particular area to address crime, anti-social behaviour, environmental concerns, and issues such as untaxed cars
- The tools available to the Police and Council for dealing with ASB will change following legislation in winter 2012 with the new tools in place to use in Harrow by 2013. Some of the key changes are:
 - The abolition of ASBOs and other court orders and their replacement by two new tools: the Criminal Behaviour Order and the Crime Prevention Injunction

- The creation of a Community Protection Order for dealing with place specific ASB
- The creation of a single police power for dispersal around ASB
- A greater emphasis on rehabilitation and restorative justice for perpetrators of ASB

The Partnership will keep up to date with these changes and make effective use of the new tools.

- Ensure that there are effective responses to the Community Trigger (which gives victims and communities the right to require agencies to deal with persistent anti-social behaviour). This is likely to be introduced in 2012
- The effectiveness with which Harrow Council deals with reports by members of the public on problems such as fly-tipping, litter and graffiti will be improved with the introduction of the Streets and Ground Maintenance Project. This new system will enable problems to be recorded more rapidly and accurately and improving how they are dealt with.
- Re-focussing the role of Neighbourhood Champions and providing greater support. It is hoped that a borough-wide conference will take place in 2011.
- Continue operations around Wealdstone where youth workers have been embedded into Safer Neighbourhood team patrols to provide a range of responses to the issues presented by young people.
- Maintain CCTV coverage in and around Harrow Town Centre. This will help to reduce ASB, a high proportion of which takes place in the Town Centre

Commentary

The ever closer working between the Council's two anti-social behaviour teams (Environment and Housing) and the Police provides a joined up and graduated menu of responses as well as the opportunity for early intervention to try to prevent problems from escalating. The remodelling of the Safer Neighbourhood Teams to provide flexibility of deployment to the areas of most need on a daily basis and the new 'Grip and Pace' management arrangements introduced by the Police (and which are influencing the speed of the Council's response to intelligence and events) all contribute to a more proactive and speedy response to anti-social behaviour.

This places the Council and the Police (as well as voluntary and community groups involved in this work) in a good position to take advantage of the new powers as and when they become available and to be able to respond to the Community Trigger provisions if they are brought into law.

Serious Youth Violence

Serious youth violence which includes GBH, knife and gun crime where the victim is younger than 20 years increased by 12% in the financial year to date to February 2012 compared to the previous period up February 2011. It should be noted that the level of serious youth violence in Harrow is still one of the lowest of London boroughs.

However, earlier this year, a number of stabbings took place between young Somali males. Chief Superintendent Babu held a number of meetings with Somali mothers, statutory and third sector partners to discuss how the mothers could help by using their influence on their children to guide them away from crime and involvement in gangs.

As a result of the meeting the 'Mothers against Gangs' was formed. Harrow police are funding the group through the Prisoner Property Act fund, and funds will be given to Harrow Association of Voluntary Organisations (HASVO) to directly fund the group.

Although MAG was set up after meetings with Somali mothers, the group will include mothers from all faiths and backgrounds.

MAG will be a self help group that will:

- Raise the profile of MAG within Harrow and elsewhere
- Assist mothers whose children are involved in or at risk of becoming involved in gangs or crime
- Assist with promoting diversionary activities for young people at risk in Harrow
- Help police and statutory partners with disseminating information within their communities

MAG will be launched at a seminar to provide mothers with information on approaches currently being trialled in Harrow and elsewhere to reduce serious youth violence and combat the influence of gangs. A number of guest speakers will provide mothers with an insight into what signs to look for to tell if your child is involved in gangs and also information of the threat to girls of joining gangs.

This work follows on from Resilience Training provided last year by the Young Foundation to help young people recognise value in social roles other than gang membership and the joint work of Safer Neighbourhood Teams and the Council's Youth Service in addressing young people's needs and behaviour on the street.

Commentary

Every year, there is a new cohort of young people who may be susceptible to the attraction of gang membership and may also be attracted to crime and violence. The work that has been done in the past needs to be renewed constantly to help and support the next cohort and to be developed as new thinking and approaches are developed here and elsewhere. Successes in this work are often about things that didn't happen – reductions in the number of young people injured through violence and less reported gang activity – but it is the intention in this year to identify positive things that have been achieved by young people who have previously been in or associated with gangs as role models and, hopefully, active proponents of the benefits of change.

Other aspects of Community Safety

The priorities identified from the Strategic Assessment relate directly to the most recent patterns of crime and anti-social behaviour in Harrow. However, there is much more to Community Safety than responding to criminality. The local authority, the Health Service, the Probation Service and a wide range of voluntary and community groups contribute to improving community safety directly and indirectly.

In an attempt to recognise these contributions and to begin to develop a picture of this wider sense of community safety, the plan now looks at the specific provision made by Adults and Children's Safeguarding, Domestic Violence support and work to address Drug and Alcohol abuse. In future Plans, we intent to widen the range of services and groups included to present a more complete account of the community safety services in Harrow.

Children's Services

There have been massive changes in national policy and funding in the last two years. Harrow Children's Services, however, has carried out a major piece of transformation work to ensure that it is best-placed to meet these challenges head on.

The service embarked on whole system redesign. Design children's services now for a locality starting from a blank piece of paper would produce a design significantly different to our existing structure. Systems and processes had grown up over years to incorporate new initiatives, targets, budgets and requirements from central government as well as reacting to local needs and priorities.

A new and innovative future operating model has been developed that puts vulnerable children, young people and families firmly at the heart of a more efficient and effective system. Staff work in multi-disciplinary Teams Around the Family. Families have rapid access to services tailored to their needs with the most vulnerable fast tracked to the help they need.

The new operating model has a single front door, staffed by an expert multi-agency team, for all early intervention and targeted children's services provided or commissioned by the council. Harrow is a Metropolitan Police pilot for a Multi-Agency Safeguarding Hub, sharing information quickly and acting together to keep children safe. Harrow is also piloting the London Safeguarding Children Board's quality assurance framework, exploring the Reclaiming Social Work approach and training all practitioners in evidence-based programmes.

Other local areas have developed triage systems and multi-agency teams, but such a comprehensive whole system approach has yet to be delivered anywhere. These new ways of working allow professionals more time to be professionals: more face-to-face time with families and less time filling in paperwork. It cuts out unnecessary process and time wasted on complex referral systems and maximises time for direct work with children and families.

Key aspects of the Harrow model include:

- Strong partnerships with police, health and the third sector building on Total Place principles, delivering services together including a multi-agency information sharing hub
- A seamless multi-agency service with one point of contact that meets the needs of vulnerable children, young people and their families
- An early intervention approach to ensure that needs are met at the earliest opportunity and avoiding later expense once problems are entrenched
- A Team Around the Family/Child model to meet need in a co-ordinated way
- Reduced bureaucracy and improved integrated systems to maximise time that key professionals are able to work with families and share information effectively
- A new relationship between the Council and schools, acknowledging their increasing autonomy (particularly the new academies) but recognising and building on their understanding of children and family circumstances
- Maximising the efficient use of resources through robust strategic planning, commissioning and procurement of services to meet local need
- Improving outcomes through rigorous quality assurance closely linked to performance management and workforce development

This integrated operating model required a new organisational structure to bring together teams differently. The re-organisation of the Children's Services enabled integrated working both within the local authority and with partner agencies.

Adults Services

Safeguarding Adult Services

Harrow Council and its partners totally condemn any form of abuse of vulnerable adults.

Whilst it is recognised that the vast majority of carers (paid or unpaid) provide excellent care to those they look after, it must also be acknowledged that abuse can be perpetrated by anyone. This can include paid workers or professionals (those in a position of trust), partners, family carers, relatives, friends or strangers.

In recognition of these facts, Harrow's Local Safeguarding Adults Board (LSAB) has agreed a vision and a set of core principles and values for the Borough:

Vision

"Harrow is a place where adults at risk from harm are safe and empowered to make their own decisions and where safeguarding is everyone's business"

Principles and Values

The Harrow LSAB partners will safeguard the welfare of adults at risk by working together (in six key areas – empowerment; protection; prevention; proportionality; partnership and accountability) to ensure that:

- there is a culture that does not tolerate abuse; (protection)
- dignity and respect are promoted so that abuse is prevented wherever possible; (prevention)
- there is active engagement with all sections of the local community so that they are well informed about safeguarding issues; (partnership)
- adults at risk are supported to safeguard themselves from harm and can report any concerns that they have; (empowerment)
- quality commissioned, regulated and accredited services are provided by staff with the appropriate level of training; (accountability)
- there is a robust outcome focused process and performance framework so that everyone undergoing safeguarding procedures receive a consistent high quality service which is underpinned by multi-agency cooperation and continuous learning; (accountability)
- victims are supported to stop the abuse continuing, access the services they need (including advocacy and victims support); (proportionality)
- there is improved access to justice; (empowerment) and
- accountability for what is done and for learning from local experience and national policy. (accountability)

The LSAB has a 3-year Business Plan which incorporates a Prevention Strategy, a Training Strategy and a Dignity Strategy and produces an Annual Report that covers the progress made on the action plan.

The LSAB recognises the key role that other main stream agencies perform as part of its wider prevention approach. For example there are joint projects with Community Safety in relation to hate crime, Trading Standards for distraction burglary, the Police in working with Banks to prevent financial abuse and Domestic Violence organisations where the victims are older people, have a learning or physical disability or a mental health problem.

Domestic violence and violence against women and girls

Following a fall of 2% in the number of domestic violence offences in 2010/11, this trend has continued with a further reduction of almost 105 in reported incidents in 2011/12. Despite this decrease, domestic violence still accounts for a higher percentage of crime in Harrow than in many other Boroughs due to the relatively low rate of other forms of offending.

Domestic Violence work includes actions under the headings of prevention; provision; partnership and perpetrators. For the purpose of this Plan, the focus is on prevention and provision which is undertaken by the Police and a range of voluntary and community organisations commissioned or supported by the Council.

Prevention

- Continue the work raising awareness of domestic and sexual violence and attitudes to violence against women and girls. A broad range of activities is covered including work in schools and community events;
- Public awareness campaigns including raising awareness addressing forced marriage and female genital mutilation;
- § Specialist training for 350+ professionals in Harrow including faith, community, voluntary and statutory services.

Provision

- Mainstream funding for at least the minimum staffing levels considered necessary for Harrow of three Independent Domestic Violence Advisors (IDVAs), and a post to support the Multi-Agency Risk Assessment conference (MARAC). The IDVAs work with victims of violence to support them make choices about their future safety
- Grant funding for a part time Independent Sexual Violence Adviser;
- Continue and extend actions to maintain public awareness of DSV. A broad range of activities are included for this purpose
- Maintain the Sanctuary Scheme, refuge beds and the participation in the West London Rape Crisis Centre at least until March 2012 when the funding situation will be reviewed

Drug and alcohol misuse

The national framework around reducing drug misuse has changed significantly in the last. The Government now requires local services to

- put more responsibility on individuals to seek help and overcome dependency

- place emphasis on providing a more holistic approaches, by addressing other issues in addition to treatment to support people dependent on drugs or alcohol, such as offending, employment and housing
 - aim to reduce demand and supply
 - increase the role of local agencies in reducing drug misuse
 - aim at recovery and abstinence.
- There is a range of drug treatment and support services available in Harrow, as detailed in the annual Adult Drug Treatment Plan.

In relation to alcohol, although this is an increasingly serious issue in Harrow as in the rest of the country, there is little specific funding made available to support education or treatment. Significant work is being undertaken to collect data to demonstrate the link between alcohol and crime and alcohol and injuries requiring treatment at an Accident and Emergency Unit.

In addition, enforcement of the existing law regarding under-age sales, the control of street drinking and the proper regulation of pubs and clubs continue to help control the damage that excess consumption can cause and the recent Government alcohol strategy which considers the case for minimum pricing may contribute to this.

Reducing re-offending

The vast majority of crime in Harrow, as elsewhere, is committed by repeat offenders. The two main agencies for reducing re-offending are London Probation: Harrow, which is the lead agency responsible for reducing re-offending and the Youth Offending Team. Both agencies try to change the behaviour of offenders and help them lead positive lives in the community.

In terms of treating offenders, Probation provides services to offenders released from prison who served a sentence of one year or more and offenders who have been sentenced in the courts to a Community Order or a Suspended Sentence Order. The Youth Offending Team attempts to prevent young offenders from re-offending.

Since the last plan, an Integrated Offender Management (IOM) scheme has been established. The scheme enjoys the support of the Probation Service; the Police; the Council; the Health Service; JobCentrePlus; the Prison Service and voluntary sector organisations.

IOM identifies individuals being released from prison who have the highest risk of re-offending based on their score against a number of factors that power the Probation OGRS system. OGRS stands for Offender Group Reconviction Scale and is a uniform national predictor of re-offending which uses static data such as age, gender and criminal history. It is used by the Probation Service, along with other systems such as OASys (Offender Assessment System) to help determine the best approach to supervision and offender management.

In the context of IOM, offenders with an OGRE score above a certain threshold are invited to take part in the scheme. The Harrow scheme can cater for a cohort of 32 offenders at any one time and these will be a mix of statutory offenders (those who received a sentence of 12 months or more) and non-statutory offenders. These are the offenders at the highest risk of reoffending although not necessarily those who might commit more serious crimes.

The benefits of taking part are that the scheme provides easier access to and guides participants through the processes of obtaining out of work benefits, employment, housing, places on substance misuse programmes or perpetrator programmes for addressing domestic violence where appropriate. In return, participants agree to a strict regime of probation

supervision and police preventative interventions. For example, police and probation officers may call on IOM participants periodically and unannounced to remind them that they are of interest to these services. A breach of agreed behaviour leads to the withdrawal of the benefits of participation (although not the loss of out of work benefits or accommodation).

IOM is presented to participants as a last chance of turning their lives around and avoiding the revolving door of repeated prison sentences.

The concept of IOM has been piloted in several London Boroughs over the last two/three years with promising results. Harrow is part of a six borough Probation-led pilot employing different voluntary sector support agencies. For Harrow and Hillingdon, an organisation called P3 has been employed by the London Probation Trust. Their current offer in Harrow includes helping prisoners complete benefit application forms before their release date and meeting them at the prison gates. P3, in conjunction with the Probation Service's existing accommodation officer, tries to identify accommodation and arranges deposits, moving in and support with basis furniture where necessary. P3, again in conjunction with existing Probation provision, also seeks employment or pre-employment training courses for IOM participants.

P3's offer in Kensington and Chelsea, where the scheme is more established, includes a Hub which provides a place to go during the day if participants do not yet have a job or a course and where there is additional support in writing CVs and applications, identifying potential courses and developing interests and hobbies and socialising that together provide reasons for wanting to stay out of trouble.

P3 have use a desk adjacent to the MASH as well as use of accommodation at the Probation Service. The Police locally have offered accommodation at South Harrow Police Station for all those associated with IOM and this is currently being evaluated.

The Future of Safer Harrow

Safer Harrow is trying to join up the wide range of organisations and services that contribute to the provision of community safety in Harrow. It has added a representative of the Magistrates' Court to its membership in the last year and will continue to seek additional partners who can add to the mix of services, experience and knowledge that can help to make sense of the complex picture of needs and service offers that currently exist, identify gaps and duplications and help to achieve the highest standards at the most affordable costs.

One of the relationships that will need to be explored in the coming year is that with the new Health and Wellbeing Board. This Board, which is currently in shadow form, will be fully established with effect from April 2013 and will be primarily concerned with identifying the health and other services that need to be commissioned for Harrow. The wellbeing part of the Board's responsibilities, however, includes aspects of community safety and it will be important to ensure that efforts to increase wellbeing complement work to secure community safety.

How the Plan will be implemented and monitored

The Community Safety Plan has been compiled by combining the action plans of the partner agencies. It will be submitted for adoption by Safer Harrow, the Council Cabinet and the full Council as it forms part of the Council's policy framework.

The Plan will, however, be owned by Safer Harrow which is responsible for delivering reductions in crime and anti-social behaviour. Safer Harrow will monitor changes in both the

crime rate and the sanction detections and, at the same time, progress on the projects set out in this plan. This will give oversight of the extent to which the activity that partners have undertaken to deliver has been achieved and also the impact that completed actions and projects make on the incidence of crime and anti-social behaviour.

As well as quarterly monitoring at safer Harrow meetings, there will be an annual review of the Plan and whether the outline actions included for later years are still appropriate and should be worked up in greater detail. This will lead to updating the action plan for 2012/13 and 2013/14. Unless the updating results in seeking new strategic objectives, it is not necessary for further formal approval to be obtained from Cabinet or the Council.

This plan should be sufficiently robust to absorb the changes envisaged by Government in the administration of criminal justice as these have been foreshadowed in drafting this document. The risks facing the plan are to be found more in the impact of continuing reductions in resources rather than legislative or organisational changes and is a possibility of requiring an interim plan next year or the year after if there are no longer resources to enable Safer Harrow to fulfil its obligations.

As well as the strategic overview brought to crime and anti-social behaviour by Safer Harrow, the various sub-groups and specialist groups will be responsible for monitoring their own action plans and the results that those strategies achieve and reporting these to Safer Harrow. Safer Harrow will therefore be well placed to identify the efforts made and the effect achieved of community safety activity.

Preliminary Draft Charging Schedule

London Borough of Harrow

Planning Act 2008 - Community Infrastructure Levy Regulations 2010

The Community Infrastructure Levy (CIL) is a new system of securing developer contributions through the planning system which local authorities are empowered, but not required, to charge on new development in their area.

The purpose of the levy is to help pay for infrastructure such as schools, transport, libraries, parks, leisure facilities and other strategic infrastructure that is required to support new development and to create sustainable communities.

Preliminary Draft Charging Schedule

The London Borough of Harrow is a charging authority according to Part 11 of the Planning Act 2008. The Council is proposing to implement a Community Infrastructure Levy in respect of development across all of the London Borough of Harrow. The Council is proposing to charge differential rates of CIL to be determined by the land use of a proposed development (expressed as pounds per square metre). This Preliminary Draft Charging Schedule has been issued, approved and published in accordance with Part 11 of the Planning Act 2008 and the Community Infrastructure Regulations 2010, as amended.

Clear messages from the CIL Regulations

Keep it simple: the Regulations state that CIL should not be overly complex. As CIL is based on a charge on additional floorspace per square metre, and as many developments planned for in Harrow are of mixed use schemes on sites with existing floorspace, a wide variety of different charges would make CIL calculation and collection increasingly difficult. Most London councils are therefore setting one or two different charges for all the uses in their area.

The charge(s) must be justified by objective viability assessments: it can not be based on wanting to encourage or restrict certain development types or promote specific regeneration locations.

Unlike with Section 106 agreements, the CIL Regulations do not allow for CIL to be easily waived or renegotiated on a site-by-site basis: it is a charge on the land and if it makes development unviable then the development may not go ahead. Therefore the Council should avoid trying to set CIL charges that are close to the ceiling of what might be viable for the majority of development within Harrow.

Requirements

In order to set a CIL charging schedule, the Council must have an appropriate evidence base to support the proposed levy. This includes:

Evidence of an infrastructure funding gap: Harrow total infrastructure bill to support new development is £137m (Education £36m; Burial & Cremation £0.8m; Health £9.8m; Leisure Centre £9m; Libraries and Archives £6.1m; Transport £60.6m; Green Space £14.4m). Traditional funding will raise £47.1m towards the cost, so the **funding gap is £61.2m, which justifies Harrow introducing a CIL**

Evidence of an assessment of development viability: Viability demonstrates that residential development can absorb a maximum CIL of £180 (in South Harrow) to £400 per

sq m (in Harrow on the Hill); Retail development to a maximum of £200 per sq m; and hotel and student accommodation £100 per sq m. All other forms of development are not viable. **Regulations are clear, CIL should not be set at maximum limits – a midway point is appropriate, ensuring vast majority of development can afford CIL and remain viable – noting also that Mayoral CIL at £35 per sq m is top-sliced**

Harrow’s proposed CIL rates

Based on the research findings and guidance, Harrow’s CIL Preliminary Draft Charging Schedule is set out in the table below. Please note the stated figures do not include the Mayor’s CIL which is an additional £35 per square metre for most development in Harrow, and has been applicable since 01 April 2012).

Preliminary Draft Charging Schedule – Rates of CIL

Use	Charge per sqm
Residential (Use Classes C3),	£110
Residential Institutions, except Hospitals, (Use Class C2), Student Accommodation, Hotels, Hostels and HMOs (Sui Generis)	£55
Retail (Use Class A1), Financial & Professional Services (Use Class A2), Restaurants & Cafes (Use Class A3), Drinking Establishments (Use Class A4), Hot Food Take-aways (Use Class A5)	£100
All other uses	Nil

The proposed CIL rate(s) strike an appropriate balance between helping to meet the identified infrastructure funding gap and the potential impact of the charge on development viability across the borough.

How have the CIL Rates been determined?

The Council has considered the findings of the viability assessment and the need to address the estimated infrastructure funding gap in making a balanced judgement on appropriate CIL rates. There has been a conscious effort to keep the rates relatively simple whilst securing an appropriate contribution of funding for local infrastructure made necessary by planned new development.

The viability evidence¹ suggests **residential** schemes are able to absorb a **maximum** CIL rate of between £180 to £400 per square metre. While there are differences in residual land values across the borough, account also needs to be had to the level of development planned for or anticipated to come forward in the different locations. Within both the highest and lowest value areas of the borough (Harrow on the Hill and South Harrow respectively) the planned levels of development are modest, and therefore do not warrant a differential charging rate being applied. The vast bulk of Harrow’s planned development is to come forward within the Harrow and Wealdstone Intensification Area. The suggested rate within this area is £110 per sqm. Taking account of CLG guidance that charging authorities do not set their CIL at the margins of viability, and taking a broad view across the evidence and the desire to continue to support growth and new homes in the area in accordance with the Core Strategy, the Council is proposing to apply this as a flat rate for residential uses across the whole of the borough.

High quality **office development** on sites in Harrow town centre have the potential to generate some value based on higher rents, however, this is very sensitive to small shifts in rents and yields and given the current context of over supply of low quality, outdated and

¹ Harrow CIL Viability Report, BNP Paribas, July 2012

unsuitable office space in the Borough the Council's evidence indicates that no CIL could be levied. At current rent levels, office development elsewhere in the Borough is unlikely to come forward in the short to medium-term as the capital values generated are insufficient to cover development costs. The Council therefore proposes to set a zero rate for office development in the Borough.

Residual values generated by **retail developments** are higher than current use values in certain areas. Those areas coincide with the locations where growth is proposed. Consequently, the Council is proposing a simple flat rate for all retail and town centre uses.

The appraisals of developments of **industrial and warehousing** floorspace indicate that these uses are unlikely to generate positive residual land values. The Council is therefore proposing a zero rate for industrial floorspace.

Student housing and hotel development in the Borough generates sufficient surplus residual values to absorb some CIL. After allowing for a buffer for site-specific factors, the Council proposes a rate of £55 per square metre.

D1 and D2 uses often do not generate sufficient income streams to cover their costs. Consequently, they require some form of subsidy to operate. This type of facility is very unlikely to be built by the private sector. The Council therefore propose that a nil rate of CIL be set for D1 and D2 uses.

Calculating the Chargeable CIL

CIL applies to the gross internal area of the net increase in development (Regulation 14). The amount to be charged for each development will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010. For the purposes of the formulae in paragraph 5 of Regulation 40 (set out below), the relevant rate (*R*) is the differential rate relating to each specific use as set out in this Preliminary Draft Charging Schedule.

Calculation of chargeable amount

(1) The collecting authority must calculate the amount of CIL payable ("chargeable amount") in respect of a chargeable development in accordance with this regulation.

(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.

(4) The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedules which are in effect –

- (a) at the time planning permission first permits the chargeable development; and
- (b) in the area in which the chargeable development will be situated.

(5) The amount of CIL chargeable at a given relevant rate (*R*) must be calculated by applying the following formula—

$$\frac{R \times A \times I_P}{I_C}$$

where—

A = the deemed net area chargeable at rate R

I_P = the index figure for the year in which planning permission was granted; and

I_C = the index figure for the year in which the charging schedule containing the rate R took effect.

(6) The value of A in paragraph (5) must be calculated by applying the following formula –

$$\frac{C_R \times (C - E)}{C}$$

Where –

C_R = the gross internal area of the part of the chargeable development chargeable at rate R , less an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which –

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
- (b) will be part of the chargeable development upon completion; and
- (c) will be chargeable at rate C

C = the gross internal area of the chargeable development; and

E = an amount equal to the aggregate of the gross internal areas of all building which –

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- (b) are to be demolished before completion of the chargeable development.

(7) The index referred to in paragraph (5) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November of the preceding year.

(8) But in the event that the All-in Tender Price Index ceases to be published, the index referred to in paragraph (5) is the retail prices index; and the figure for a given year is the figure for November of the preceding year.

(9) Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish –

- (a) the gross internal area of a building situated on the relevant land; or
- (b) whether a building situated on the relevant land is in lawful use, the collecting authority may deem the gross internal area of the building to be zero.

(10) For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.

(11) In this regulation “building” does not include –

- (a) a building into which people would not normally go:

- (b) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or
(c) a building for which planning permission was granted for a limited period.

(12) In this regulation “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

Draft Instalments Policy

In accordance with Regulation 69B of the Community Infrastructure Levy (amendment) Regulations 2011, the Council is proposing to allow payments of CIL by instalments according to the total² amount of the liability as follows:

Amount of CIL Liability	Number of Instalments	Payment Periods and Amount
Any amount less than £100,000	No instalments	<ul style="list-style-type: none"> Total amount payable within the 60 days of commencement of development
Amounts from £100,000 to £250,000	Two instalments	<ul style="list-style-type: none"> £100,000 payable within 60 days of commencement of development Balance payable within 120 days of commencement of development
Amounts from £250,000 to £500,000	Three instalments	<ul style="list-style-type: none"> £100,000 payable within 60 days of commencement of development Balance payable in a further two instalments of equal amount within 120 and 180 days of commencement of development
Any amount greater than £500,000	Four instalments	<ul style="list-style-type: none"> £100,000 payable within 60 days of commencement of development Balance payable in a further three instalments of equal amount within 120, 180 and 240 days of commencement of development

Draft Regulation 123 List

The following table comprises Harrow Council's Draft Regulation 123 List. It includes the strategic infrastructure that the Council currently considers it is likely to apply CIL revenues to. However, it is important to note that Harrow is not due to implement CIL until mid 2013, and therefore the contents of the Regulation 123 List may change depending upon the following:

Changes to local or national funding stream that may occur prior to the CIL implementation date; and

The requirements of the regulations governing the level of the “meaningful proportion” of CIL that is to be passed to local communities.

Infrastructure currently considered likely to benefit from the application of CIL funding	
Education	Early years, primary and secondary schools

² The total amount of CIL is the amount shown on the Liability Notice and may include components for London Borough of Harrow and the Mayor of London

Health Services	GPs, acute healthcare
Social Care	Supported accommodation
Emergency Services	Police, Ambulance and Fire Services
Culture and Community facilities	Libraries and community halls
Open Space	Parks, natural green space, amenity space and green corridors and green grid
Biodiversity	
Recreation and Leisure	Play space, sports and leisure centres, swimming pools and playing pitches
Cemeteries and Burial Space	
Transport	Roads, buses, cycling, rail and underground)
Flood mitigation	

A final version of the Regulation 123 List, which will take account of any issues mentioned above, will be published on the Council's website immediately prior to the CIL implementation date.

Consultation

Public consultation on the Draft Charging Schedule will take place from **X November to X December 2012**. The purpose of this consultation is to invite further comments on the proposed CIL rates for the different planning uses having regard to Council's response to representations made to the Preliminary Draft Charging Schedule and also to the appropriate available evidence which includes:

- The adopted Local Development Framework Core Strategy, February 2012
- The revised Infrastructure Assessment and Delivery Plan, June 2012
- The CIL Infrastructure Report, July 2012
- The CIL Viability Study, July 2012

These supporting documents are available to view on the Council's website and at all libraries and the Civic Centre throughout the consultation period.

All comments should be received in writing by **5pm on X December 2012**.

Following the close of consultation, all comments received will be submitted, alongside the proposed charging schedule for independent examination in public (EIP), programmed for early 2013.

For further information on the proposed Harrow CIL Charging Schedule, and to submit comments on the document please visit the Council's website at www.harrow.gov.uk/ldf

Alternatively, comments can be submitted via e-mail to ldf@harrow.gov.uk or by post to LDF Team, Civic 1, 3rd Floor East Wing, Civic Centre, Station Road, Harrow HA1 2UY. For any queries please call 020 8736 6082.

Please note that comments cannot be treated as confidential. They will be made available as public documents.

HARROW YOUTH OFFENDING PARTNERSHIP

YOUTH JUSTICE PLAN 2012-13

September 2012

APPENDIX IV

HARROW YOUTH OFFENDING PARTNERSHIP

YOUTH JUSTICE PLAN 2012-13

Summary

Since 2000 there has been a requirement in the Crime and Disorder Act 1998 for Youth Offending Teams (YOTS) and their partnerships to produce a Youth Justice Plan setting out how YOT's will be resourced in a local area and the services which will be available in relation to the statutory primary aim of YOTs to prevent youth offending in the area.

The YOT Management Board is a multi-agency partnership accountable to the partnership through Safer Harrow. The membership of the board has recently been reviewed to ensure appropriately senior representation and it has been agreed that the YOT Management Board will now be chaired by the Divisional Director with lead responsibility for quality assurance to ensure robust challenge and scrutiny. The Management Board is responsible for the production and delivery of the Youth Justice Plan.

The strategic aims for the YOT are set out in the plan are:

- Integrated strategic planning and working with clear performance oversight to ensure effective delivery of youth justice services.
- Effective partnership arrangements between YOT statutory partners and other stakeholders to generate effective outcomes for children and young people who offend or are at risk of offending.
- Efficient deployment of resources to deliver effective youth justice services to prevent offending and re-offending by children and young people.

HM Inspectorate of Probation (HMIP) inspected Harrow's Youth Offending Services in November 2011 and subsequently published a report on 21st December 2011. The purpose of the inspection was to judge "how often the Public Protection and Safeguarding aspects of the work were done to a sufficiently high level of quality" (HMIP inspection report London Borough of Harrow 2011, p.3). The inspection took a representative sample of cases which were judged on how often Public Protection and Safeguarding aspects of work were done to a sufficiently high level of quality.

The inspection was split into three areas of Assessment and Sentence Planning, Delivery and Review of Interventions and Outcomes, each of which identified areas that needed improvement, including lack of permanent management in place, CAMHS input declining which impacted the provision of specialist input and delivery, to example a few. All of which then impacted the ability to assess whether there were successful outcomes for young people.

The Inspectors judged that:-

“the Safeguarding aspects of the work were done well enough 45% of the time. With the Public Protection aspects, work to keep to a minimum, individual’s *Risk of Harm to others* was done well enough 43% of the time, and the work to make each individual less likely to re-offend was done well enough 53% of the time.”

The results were a disappointing set of findings which identified significant short comings in management oversight and staff changes which had impacted the quality of work to manage risk of harm to others and to address safeguarding needs.

Some of these area’s have already been addressed; the recruitment of a permanent YOT manager, work on identifying a skilled workforce and any gaps alongside a new operating model as part of the wider Children’s Services restructure. This should secure closer integration with services for vulnerable children and young people.

Since the beginning of 2012, a time limited Improvement Board has been in place to oversee the implementation of the YOT improvement plan. This board reports to the YOT Management Board and is chaired by the Divisional Director, Targeted Services. The improvement board is responsible for the delivery and implementation of the YOT improvement plan -post inspection, including driving up of national standards and improvement of quality and specific areas identified within the inspection. The improvement plan has recently been reviewed to ensure that there is a relentless focus on both performance outputs but more importantly on the quality of intervention and support to young people.

This plan is set out as follows:

- Structures and Governance
- Partnership arrangements
- Resourcing and Value for money
- Risks to Future Delivery
- Performance
- Key Challenges and Achievements
- Priorities for 2012-2013

1. Structures and Governance

Outcome: Integrated strategic planning and working with clear performance oversight to ensure effective delivery of youth justice services.

Safer Harrow is considered the local Crime and Disorder Reduction Partnership which is jointly chaired by the Borough Commander and chief executive. This partnership takes a strategic approach to Crime and Disorder issues within Harrow. Membership of Safer Harrow consists of the following statutory partners:

- Probation Service
- Police
- Courts
- Local Authority Children's Services
- Community Safety / Crime Reduction
- Health

The YOT Management Board meets quarterly and is chaired by a Divisional Director within Children's Services. All statutory partners are represented at a senior level, including specialist services such as victim support / parenting. The YOT management group includes overseeing the development and implementation of the Youth Justice Plan; considering resource and workload issues; performance data reporting; approving policies and protocols; the group also incorporates public protection and safeguarding issues are addressed at each meeting.

Following the recent Inspection of Harrow YOT, a "time limited" Improvement Board has been created to oversee the implementation of the YOT improvement plan. This board sits underneath the YOT Management Board which is chaired by the Divisional Director with lead responsibility for quality assurance. Responsibility of this board consists of the delivery and implementation of the YOT improvement plan – post inspection, including driving up of national standards and improvement of quality and specific areas identified within the inspection.

A new operating model within Harrow Children's Services has placed Harrow YOT within targeted services sitting alongside other specialist services such as Children Looked After. This also involved moving to a new building in an open plan shared office. This provides the YOT with a management structure that is both leaner and more cost effective, as well as providing an increased level of support for both staff and young people.

The positioning of the YOT, with governance and accountability through Safer Harrow and line management within Children's Services enables the YOT to meet its dual strategic functions relating to both justice and welfare.

2. Partnership Arrangements

Outcome: Effective partnership arrangements are in place between YOT statutory partners and other local partners that have a stake in delivering local youth justice services, and these arrangements generate effective outcomes for children and young people who offend or are at risk of offending.

The YOT partnership ensures that the YOT are strongly linked to other planning frameworks. As stated earlier – the YOT management board reports to Safer Harrow and feeds into the development of strategic approach of Crime and Disorder

In achieving the Commissioner's vision of Total Policing with efficiency savings, the Metropolitan Police is examining all areas of business to look at how things can be done better, smarter and deliver real crime reduction. As part of this vision, Harrow Borough is examining its youth engagement strategy for both enforcement and intervention work. We recognise the complexity of youth crime and the multi faceted reasons why young people commit crime and that often there are complicated and complex social, family, education and health issues which all play a significant part. In addition, Harrow Borough recognises the emerging

existence of a gangster culture among some of its youth and the correlation of gang culture and levels of violence. This is a challenge to both local policing and the local authority is problem solving in a truly multi agency way to identify those at most risk, engage and divert away from crime.

Core to the Harrow Police strategy is the joint working within the Harrow YOT's Team. This relationship is continuously seen as crucial in our joint efforts to reduce crime. Resource levels are currently being reviewed throughout Harrow police and as part of this process, Harrow police and YOT will be identifying appropriate and suitable staffing arrangements to the YOT. Harrow YOT management have a dedicated representative at Early Intervention Panel, Joint Area Tasking and Co ordination Group, alongside this a senior practitioner will attend every Looked After Child, Child Protection and safeguarding meetings amongst other local meetings – including those held at local youth centres.

Communication with courts is had through Court User Group meetings, and North West London Youth Panel Meetings where YOT manager and senior practitioner attend, Legal Advisors also attend YOT Management Board.

The Triage and prevention operations such as PVE and mentoring sit outside of the YOT within the Early Intervention Service. The YISP was placed within the Early Intervention Service to make best use of the early years focused staff and subsequently proved very successful. The approach has continued to be successful in reducing first time entrants and in particular the very low re-offending rate of young people subject to Triage. The YOT and EIS are closely linked with shared education and careers staff, prioritising of young offenders in the troubled families strategy as well as being co-located.

One of the strengths of the New Operating Model is that there will be a centralised commissioning function across the whole of Children's Services, and through this the YOT will be able to call upon a wide range of voluntary sector agencies for work with parents and families. Existing contracts include HOPE (a local parenting support network), Victim Support and Oasis (Counseling support).

Stronger links with Probation are also in the process of being established, which involves utilising YOT probation officer for specialised work such as taking lead on MAPPA, transfer of young people from YOT to Probation, and being a key role in the Integrated Offender Management scheme.

A revised and updated information sharing agreement will ensure that the YOT is able to take full advantage of the additional information resources available locally. This will be managed through the Multi Agency Safeguarding Hub (MASH) a multi agency, multi disciplinary access team, through which all referrals and requests will be funneled along with court.

Constructive, positive activities for young people will be provided by a range of agencies, overseen by the commissioning team, and accessible to the YOT.

Some effective partnerships are in place between YOT statutory partners and other local partners that have a stake in delivering local youth justice services; some are being strengthened and reviewed – this includes working agreements between teams such as Children in Need and YOT; and these arrangements generate effective outcomes for children and young people who offend or are at risk of offending in recognition of our high percentage of LAC population that offends.

3. Resourcing and Value for Money

Outcome: Efficient deployment of resources to deliver effective youth justice services to prevent offending and reoffending.

In all previous years Harrow Youth Offending Team has been resourced by contributions from statutory partners, the Youth Justice Board and some additional grant funding. National financial pressures have resulted in the reduction of Youth Justice Board funding by 13% from 2011/12 to 2012/13. In 2012/13 the Local Authority stepped in to cover the shortfall to prevent a further budget reduction.

In previous years, statutory partners have also been contributing through in kind deployment or secondment of key personnel. At present there is no expectation that statutory agencies will reduce the secondment of staff into the YOT, and we are grateful to them for continuing to prioritise this work.

In addition to these seconded staff, the YOT has been able to call upon the expertise of a range of skilled professionals, most of who are directly employed by the Local Authority as detailed in Table 2. Other key skills are commissioned from the voluntary sector as recommended by the Youth Justice Board. However third sector agencies who are commissioned to provide services directly to the YOT mainly substance misuse, parenting, Victim work and counseling have all been commissioned for the coming year. A review of service commissioning is being carried out at this moment, and decisions around funding for the year 2013-14 will be made as a part of this review as well as taking into consideration whether they are fit for purpose services being delivered.

During 2011-12 a new operating model was introduced for Children's Services in Harrow which will create a single front door for access to all services, and also realign services to improve outcomes for children and families. Harrow YOT has been at the forefront of these developments and welcomes the changes.

Some support services previously based within the YOT are now based across children's services encouraging a more holistic approach to children and their families from the YOT case managers and encouraging referrals for younger siblings for example with a view to prevent future offending.

In 2011-2012 Harrow had an offence rate per 1000 young people of 17, compared with 19 in 2010/11. This compares to the England average offence rate of 25 and the 'YOT family' average of 21.

The following tables set out the current budget for 2012-13 as compared to 2011-12, and the staffing resources as at 30.06.12.

Table 1 Financial Resources

Funding Stream	Type	2011-12 Total (cash and in kind)	2011-12 % of total budget	2012-13 Cash	2012-13 in kind	2012-13 Total	2012- 13 % of total YOT budget	Percentage Change/ Increase/Dec rease
Youth Justice Board	Total grant (All previous ring fenced grants now combined in Youth Justice Grant)	351,589	25.6%	307,282	0	307,282	23.1%	-13%
Probation	Statutory support	50,000	3.8%	0	50,000	50,000	3.8%	0%
Police	Statutory support	66,231	5.0%	22,000	44,231	66,231	5.0%	0%
Health	Statutory support	10,000	0.8%	10,000	0	10,000	0.8%	0%
	CAHMS	0	0	0	10,000	10,000	0.8%	-
	Sexual Health	0	0	0	0	0	0%	-
	Unitas	4,000	0.3%	4,000	0	4,000	0.3%	0%
Drug Action Team	Grant	20,000	1.5%	0	20,000	20,000	1.5%	0%
Local Authority	Main Budget	446,338	33.6%	483,538	0	483,538	36.3%	8%
Local Authority	Support Services cost	380,115	28.6%	380,115	0	380,115	28.6%	0%
Total		1,328,273	100%	1,206,935	124,231	1,331,166	100%	0%

Table 2 - Human Resources (as at 30 June 2012)

Post Title	No of posts	No filled	Source/Employer	Hours	Ethnicity	Gender
YOT Manager	1	1	Local Authority	F/T	A	F
YOT Snr Practitioner	1	2	Local Authority	F/T	A	M
	1		Locum		W	F
Case worker	3	2	Local Authority	F/T	W	F
		1 Vacant		F/T	W	F
		4	Locum X 4	F/T	B	M
				F/T	B	F
				F/T	B	F
				F/T	W	M
Probation officer	1	1	Probation	F/T	W	M
ISSP Co-ordinator	1	1	Local Authority	F/T	B	F
Referral panel co-ordinator	1	1	Local Authority	F/T	W	F
Victim support	1	1	Voluntary Sector - commissioned	0.5	W	F
Parenting	1	1	Voluntary sector - commissioned	0.5	W	F
Reparation worker	1	1	Local Authority	1	W	M
	0.5 post	vacant		0.5		
Housing worker	1	1	Local Authority	0.6	W	M
Police officer	1	1	Police	P/T	W	M
Substance misuse worker	1	1	Voluntary Sector – commissioned	P/T	W	F
Counsellor	1	1	Self employed	0.3 sessions	B	F
Performance officer	1	1	Local Authority	F/T	A	F
Admin support	3	2	Local Authority	1	W	F
		1 as and when contract		0.5	W	F
				0.5	A	F
TOTAL	20.5	23				

In 2011-12 Harrow underwent a restructure of its children's services which saw the transfer of staff previously placed in the YOT (mentoring, PVE and Education) over into the Early Intervention Service. The New Operating model provides far greater opportunities for more joined up working across the service, and ensuring more robust exit strategies for young people coming towards the end of their order, where on going needs have been identified. Over the course of 2012-13 YOT manager will work closely with EIS managers to ensure proposed working arrangements under the new operating model prove to be effective and young people receive a seamless intervention from across the service.

In addition to paid employees, the YOT is fortunate in being able to call on over 50 volunteers and sessional staff. These individuals make a substantial contribution to the work of the YOT through a range of activities including:

- Supervision of young people on ISS orders during evenings and at weekends
- Membership of community panels for referral orders
- Appropriate adult work in police stations and elsewhere

4. Risks to future delivery

Outcome: The YOT has the capacity and capability to deliver effective youth justice services

Resources

There was a further reduction in the YJB grant while in the year moving forward the Local authority has put in place additional funding to address the issues highlighted in the inspection report and subsequent improvement plan, continued pressure placed on the wider funding streams from central government mean that this is not a permanent increase in contribution, and will be reviewed once the improvement plan is considered to be successfully completed.

Capacity

The total number of offences by young people in Harrow was 410 in 2010-11 and 356 in 2011-12. The total offending population was 162 in 2010-11 and 164 in 2011-12. During the last 2 years there has been a decrease in the number of first time entrants (FTE) to the criminal justice system in Harrow. There were 127 FTE from Jan – Dec 2011 compared with 154 in the prior year. Some of this can be associated with the success of the early intervention work in the borough and a very effective Triage at point of arrest. This scheme applies to all young people arrested for the first time for a non-violent offence, and leads to a 3-month intervention programme under bail. Successful completion of the programme leads to the bail being concluded as no further action.

In 2009-2010, re-offending figure was 170, which significantly increased in 2010-2011 to 269 and then dropped to 259 in 2011-2012. There has also been a reflected pattern in custodial sentences. In 2009-2010 the rate per disposal was 10 out of 373 (2.68%), which increased in 2010-2011 to 17 out of 269 (6.09%), and then 2011-2012 a decrease to 15 out of 257 (5.84%).

Management

A new management team is in place consisting of one team manager and one senior practitioner. An additional senior practitioner post has also been created to support implement the YOT improvement plan, and drive up the level of management oversight, which was identified as an area for improvement in the inspection report. In addition the current structure of the YOT being a fit for purpose service is being considered.

Partners

The members of the Harrow Youth Justice partnership have all experienced reductions in resources in recent years. It is inevitable that this will impact on what is available locally to YOT clients.

The Harrow Magistrates Court closed in June 2011, and the Youth Court has been transferred to Brent Court now defined as Willesden Court. This has created opportunities for Harrow YOT to forge greater working relationships with our partner YOT's (Brent and Barnet) with whom we now share this court. The impact of being in a court based further away means staff spend more time travelling which means time away from face to face contact. In addition to this the Crown Prosecution Service (CPS) have now gone digital, meaning all papers are electronic, This has had an impact on YOT services receiving CPS papers in enough time to complete court reports, and has been raised as a "teething" issue at Court User Group meetings by those sharing the court. The closure of the court has impacted those existing familiar relationships with magistrates and court staff; which often can make complex court processes a lot smoother. However YOT staff are now beginning to build new relationships with staff and neighboring YOTs which has provided the opportunity to revisit existing practice and policies and build and improve on court processes.

Changes to Harrow Demography

The ethnicity profile of Harrow's school pupils reflects the general diversity changes within Harrow's population. Indian and White British pupils continue to be the largest ethnic groups in Harrow's schools as at January 2011. However, there has been a significant decrease in White British pupils from 28% in 2006 to 19% in 2011, and an increase in pupils from other Asian backgrounds from 13.1% in 2006 to 19.5%, followed by an increase in the other White backgrounds group from 4.2% in 2006 to 7.3% in 2011. The chart below shows the percentage of pupils in each ethnic group in Harrow schools as at January 2011.

Less than half the children at Harrow schools speak English as a first language (44.87%) as at January 2011. However English along with Gujarati, Tamil and Somali continue to be the main languages spoken. In line with the changing ethnic groups Middle Eastern and Eastern European languages (particularly Romanian) are increasing yearly.

These actual changes put pressure on both universal and targeted services across the Borough at a time when financial and other resources are significantly diminished. In addition to this it has an impact on the number of additional resources needed for young people in the youth justice system, in particular interpreting services.

5. Performance 2011-12

Over the last few years Harrow has changed rapidly as detailed above, and these changes have had both positive and negative impacts on the performance of the partnership and the Youth Offending Team.

YOT performance is measured via a set of outcome indicators which are reported to the Youth Justice Board. The most recent comparative data is shown in the table below:

Indicators*	Harrow	London	YOT comparison group	England
First time offenders rate per 100,000 of 10-17 population				
Jan 11 - Dec 11 (latest available data)	597	891	590	749
Apr 10 - Mar 11	632	1017	720	876
Use of custody rate per 1,000 of 10 -17 population				
Apr 11 - Mar 12 (latest period)	0.71	1.77	0.87	0.80
Apr 10 - Mar 11	0.80	1.57	0.81	0.90
Reoffending rates after 12 months				
frequency rate - Jul 09 - Jun 10 cohort (latest available data)	0.90	0.98	0.81	0.96
frequency rate - Apr 09 - Mar 10 cohort	1.04	0.95	0.81	0.92

*note that due to validation and checking against police records some data becomes available significantly in arrears

Harrow's YOT continues to have comparatively good results on these indicators but faces challenges to reduce reoffending and use of custody, which have both increased in recent years. As detailed above, an improvement plan is in place to address the performance issues identified in the Core Case inspection, with a focus on the quality and timeliness of work.

In April 2011- March 2012 the youth crime prevention triage team received 82 Referrals, 4 agreed triage but later disengaged, and 8 refused intervention. From the 70 worked with there was success rate of 100% in rate of no re-offending in this period.

Other measures of performance have been variable over the period. Rates of Young Offenders in Education Training and Employment (ETE) have dropped from 76.2% in 2009-10 to 67.7% in 2011-12. Housing, referrals for substance misuse and mental health support have remained static at a reasonably high level. Victim engagement continues to meet the targets of engagement and satisfaction.

Harrow YOT has now joined with corporate performance to develop monthly monitoring on data which will form a substantial role in the YOT management boards oversight of these figures.

6. Key Challenges and Achievements

Key achievements in the last year have included:

- Reduction in use of custody
- Reduction in re-offending rates
- Sustaining the lower rate of FTE
- Improved management oversight
- Robust policies and procedures

Key challenges in the last year have included:

- Core Case inspection report highlighting the need for very significant improvements in areas of safeguarding, victim awareness and effective management oversight,
- Transition to the new operating model
- Staff performance issues currently ongoing requiring high levels of Human Resources input and support
- Changes in senior management team directly responsible for YOT

Harrow YOT's aim for 2012-13 will be to implement the actions outlined in the YOT improvement plan and ensure safe practice by practitioners, effective oversight by managers and the best possible outcomes for children and young people.

Staff need to be supported, managed effectively and developed in their roles which is critical to any improvement that should take place. This includes regular supervision which offers robust management oversight and identifies training and development needs as well as completing Appraisals; regular team meetings which will assist in the team working together to drive up standards of improvement and be accountable as a team for any future inspections. In addition to this opportunities are created for staff to be reflective in their practice and be open to challenges and share good practice by way of group supervision and peer support.

Structured allocations meetings immediately after court will ensure staff are clear on who has which case and offers the opportunity for staff to discuss as a multi disciplinary team a potential plan of action for the young person, as well as sharing any previous knowledge.

Report templates created to ensure consistency, and encourage staff to ask the "right" questions as part of the assessment process in order to elicit as much information as possible, and all staff to attend safeguarding training and attend training on risk management and analysis of information.

There is a considerable amount of work and resources needed to improve standards within the youth offending team – however through regular monitoring through improvement and management boards, the resources can be targeted to the right areas.

Summary of our priorities for 2012/13:

1. Improve safeguarding and quality assurance systems, including quality assessments, plans and interventions.
2. Drive up compliance with National Standards
3. Deliver strong performance
4. Manage poor performance through processes and procedures
5. Work in a more integrated under the New Operating Model to ensure young people's needs are met
5. Build workforce skills
6. Monthly data reporting into YOT management board

LONDON BOROUGH OF HARROW

COUNCIL

8 NOVEMBER 2012

QUESTIONS WITH NOTICE (ITEM 14)

Fifteen minutes will be allowed for Members of the Council to ask a Portfolio Holder a question on any matter in relation to which the Executive has powers or duties.

1.

Questioner: Councillor Stanley Sheinwald

Asked of: Councillor Margaret Davine (Portfolio Holder for Adult Social Care, Health and Wellbeing)

[Answered by Councillor Sachin Shah (Portfolio Holder for Finance)]

Question: “Can Cllr Davine explain why the Council is cutting the number of journeys for taxi card holders who as the most vulnerable people in the borough will probably be made prisoners in their own homes by this decision and would benefit greatly if it could be rescinded?”

Answer: I, like you, think it is outrageous the Mayor of London has cut the grant for this scheme. The Mayor’s decision to reduce the subsidy is wrong and I will campaign against it.

However, once the subsidy was cut, Harrow had little choice but to pass on the reduction. So instead of making a pure cut to the scheme, we went back to first principles. We looked at the purpose of the scheme, which was to provide subsidised door-to-door transport for people who have serious mobility impairment and difficulty in using public transport. We then worked with the Voluntary Sector and other representative stakeholders to come up with a scheme that fairly distributes the reduced allocation of money.

Following this consultation, Cabinet adopted the following changes to the Taxicard policy;

1. Applicants with an Age related/Disabled Freedom Pass or a Blue Badge or both, will be entitled to a Taxicard with a maximum allocation of 52 trips annually.
2. Applicants who do not hold a Freedom Pass or Blue

Badge will be entitled to a Taxicard with a maximum allocation of 104 trips annually.

3. Applicants who hold a Discretionary Freedom Pass will not be entitled to a Taxicard.

Those policies allow us to fairly distribute a smaller pot of money in a way that holds up to the purpose of the scheme when it was introduced.

Supplemental Question: How many Taxicards are there in the Borough?

How much does each one cost the council and how much money is being saved by cutting the journeys?

Supplemental Answer: I do not have any of those figures with me now but I will write to you.

Answers provided after the meeting as follows:

How many Taxicards are there in the Borough?

There are currently 4,970 scheme members

How much does each one cost the council?

If all taxicard users used their full entitlement and the average cost per trip stayed the same as now (6.31) the cost to Harrow would be £1,630,756.00. However on average there are 15.3 trips per scheme member, costing Harrow around £480,000.

How much money is being saved by cutting the journeys?

The expenditure had fallen from £700k to just under £500k over the last two years.

2.

Questioner: Councillor Susan Hall

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contracts)

Question: “Your predecessor claims Harrow is a Council which ‘listens’; do you believe this to be case?”

Answer: I am Portfolio Holder for Property and Major Contracts. My predecessor is a Portfolio Holder for Property from the opposition. So why are they asking me? Why aren't they asking themselves?

But anyway, I will still answer you.

Yes I do believe it. We as an Administration, and as a Council, agreed our Corporate Priorities at Council in 2011 following extensive consultation through Let's Talk, our street based engagement approach. One of these priorities was to be a Council that listens and leads and there are many examples of us doing this well, from the consultation on Fairer Charging in Adults, changes in Children's Centres and our parks, open spaces and leisure and cultural facilities in the borough.

I remind you that when this Administration came into power the net result, through our Involvement Tracker for residents who felt that the Council took account of residents' views when making decisions, was -5%. This meant that more people felt that the Council did not take account of residents' views than felt that it did. Under this Administration with a our clear policy steer that we became a listening Council, we have achieved positive scores in each of the three Involvement Trackers which have taken place and the last one in May 2012 was +13%. My view is that we should build from this success.

Supplemental Question: You have still got people asking you questions about Whitchurch. You ignore the consultation response on the running of the libraries because you did not like the answer. Every month residents ask questions at Cabinet about mental health services because they are not happy.

So, on these issues, do you think you have listened at all?

Supplemental Answer: Whitchurch had the biggest consultation ever happened in the borough. It has over 3,000 people responded to it This is all in the Cabinet papers. You say that it was not consulted properly. Do you know that in your experience, the Council does consultations sometimes, send 25,000 copies and get 5 back?

We are extensively listening to people and consulting. I do not see anything wrong with that.

3.

Questioner: Councillor Susan Hall

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contracts)

Question: "What innovative policies do you hope will become the cornerstone initiatives of your administration?"

Answer: The first two years of this administration have successfully steered us through one of the most challenging financial environments the public sector has ever seen.

This Administration has laid out its vision 'Working Together, Our Harrow, Our Community' and has laid out its top four

priorities.

We are also proud that in the face of the cuts that we are being forced to make, we have saved money and been highly innovative at the same time. For this we were recognised as the Best Achieving Council in 2011.

There are too many examples to go though but our innovative work on the MyHarrow account won us a further MJ Award for Transformation through IT in 2012. We are national leaders on reablement. Our success of Let's Talk I have previously mentioned. The Help 2 Let scheme is pioneering.

There are a number of things I am passionate about and want to see this council achieve. Some of my initial priorities will be in the following areas:

- We must continue to manage the difficult financial challenges to the standard of the past two years – finding innovative solutions to Coalition cuts.
- Secondly, that we do what we can to look after those most in need and most affected by the Coalition's shocking welfare reforms.
- I want to see us grow our housing stock and provide a roof over the head for those people most in need.
- We have to find enough school places for our growing population.
- We need to become a more commercial Council, one that is better at procuring our goods and services

We are in the midst of our budget planning process and I look forward to bringing forward proposals when we bring our budget and corporate plan next year.

Supplemental Question: Obviously you have just gone through the leadership campaign and we congratulate you for that and you were against some very good other people. So you must have had something that you sold to the others in your leadership campaign and recently you have been interviewed and you said that you would be prepared to think outside the box.

So what has come from your thoughts, thinking outside the box, to quote yourself, that you obviously convinced all your colleagues that that would be something that you would put in that would stand you above all of the others and therefore, that is why you were the ideal choice as Leader?

Supplemental Answer: Look at what happens with waste disposal. Instead of giving £1 million to take our waste away, we are now getting £1 million

from somebody coming and taking our waste away. It is thinking outside the box.

I have given an extra brief to Councillor Ferry to bring in extra income to the borough. Extra income streams, that is thinking outside the box.

One idea relates to safe deposit boxes. People are crying out for them. You will never know the figures until the officers do a research and find out how many people actually they need. How much it is going to cost. How you are going to do it. How such decisions you are going make. They are all outside the box. A number of things.

Within the 2½ years of our administration, we have delivered approximately 47 innovations.

4.

Questioner: Councillor Barry Macleod-Cullinane

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contracts)

Question: “What experience gained during your time as portfolio holder do you hope to bring to your role as Leader?”

Answer: Your experience is very different from my experience. I went to a village school that taught me a lot about life and how poor people live.

Additionally, contracts are cross cutting, giving me an insight across all departments, of their work.

Until 2011-2012, the financial year, I was a Member of almost every single Committee. That gave me an experience of many fields.

In my personal life I am an accountant. That gives me an overview of what is happening to businesses in this country, how the small traders are suffering, in corner shops, hairdressers and pharmacists.

I have been working with many different communities all my life. That gives me new experience which fundamentally makes me understand how human beings think and act, how they manage in their life when you have cut, after cut, after cut, from this Government and how they learn new ways to survive, never mind living.

Supplemental Question: Putting aside these very personal remarks you have made, and also to focus in on the point of the question, in fact, I asked you about your experience when you were a Portfolio Holder, not

about your education or anything like that. Your experience as a Portfolio Holder.

So let us return to that. I previously asked about when you were a Portfolio Holder for Major Projects and Contracts and you blamed missing the opportunity to tender for a new highways contract on the fact that you were new in your job. Are you not also concerned now at making the same sort of errors in your new role as Leader, since you are new to that and things might come up that you do not read, do not look at, do not consider and Harrow loses as a result?

Supplemental Answer: It is a new role but I have wide experience in my role as a Portfolio Holder. You criticise me for one contract on highways being one year late. Why did you not renew it? I took my time and saved £700,000 a year on the highway contract and about £7-8 million on capital. Only by taking more time and renegotiating it.

The latest contract is going through. That again is another saving of £500-600-700,000.

Look at housing. We took our time. There is about 20% improvements on repairs and maintenance. It goes on and on.

All my experience is benefiting the Council in millions.

GUILLOTINE REACHED (the following answers were circulated after the Council meeting, by written response, at the request of the Mayor).

5.

Questioner: Councillor Barry Macleod-Cullinane

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contracts)

Question: "You said you were committed to providing the 'highest quality services and value for money' for residents; can you confirm which services you intend to prioritise and which you feel could deliver better value for money?"

Written Answer: The Council is in the process of looking at its budget for the next two to four years, and key to this is understanding our cost base and where there is scope for further efficiencies.

The Council is committed to delivering services which offer local taxpayers value for money, and we have set this out clearly in our Corporate Plan. The London Authorities Performance Solution, which is an independent benchmarking system ran by London Councils, indicates that on the whole the Council is low cost and high performing.

So in answer to your question, I believe that the vast majority of our services are providing excellent value for money.

We are in the middle of our budget planning process and I look forward to bringing forward our budget proposals next year.

For the first time of any Administration at Harrow we have started to articulate the 'core outcomes' that we will prioritise for our residents. Not vague priorities but hard outcomes. We will use these outcomes to guide how we make savings and any areas we are able to invest and how we meet the financial challenges ahead.

6.

Questioner: Councillor Susan Hall

Asked of: Councillor Mitzi Green (Portfolio Holder for Children, Schools and Families)

Question: "Given you were portfolio holder for Children's Services when both the OFSTED and YOT inspections were carried out, what lessons have you learned personally from their highly critical conclusions?"

Written Answer: Firstly I must address the premise of your question. OFSTED and YOT were both entirely different inspections with entirely different results.

It is therefore important to state that we did not fail our Ofsted as she infers but achieved a grade of adequate which we are not complacent about and have instituted an improvement plan.

But she asks what I have learned personally.

I have learned that it takes more than 2 years to improve a Children's Services department which when we inherited it was in a parlous state being £2m overspent.

As a result unlike the previous administration I have learned never to be complacent about Children's Services

I have learned that it takes more than 2 years for the necessary root and branch review and the following implementation of the NOM to bear fruit.

I have learned that without such improvements we could well have failed our Ofsted.

I have learned how to work with officers to protect children's services in the face of draconian government cuts. We have had to make over 6 million pounds worth of savings as a result of such cuts.

I have learned to concentrate on the hard work we have to do and not use children's services as a political football.

I have learned that we achieve more working together.

Most importantly I have learned that children should be at the heart of everything we do and will continue to work hard to achieve the best children's services possible for children and families in Harrow.

7.

Questioner: Councillor Susan Hall

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contracts)

Question: "As part of focussing your administration, do you have plans to introduce or abolish any flagship/priority actions?"

Written Answer: We are reviewing Quarter 2 performance of the Council at the moment, where we will look at how we are delivering against our Priority Actions.

These were agreed by Cabinet and Council in February as part of our Corporate Plan and I am committed to these as things we, as a Council, want to deliver this financial year. This Administration to date has not 'abolished' any Priority Actions in year, and I have no intention to do this as Leader. In planning for next year, we will of course consider how we set out our key priority delivery areas for 2013/14, and these will come forward through the Corporate Plan in February Cabinet, and then through Council.

8.

Questioner: Councillor Barry Macleod-Cullinane

Asked of: Councillor Thaya Idaikkadar (Leader of the Council and Portfolio Holder for Property and Major Contract)

Question: "Can you provide the rationale behind your Cabinet selection and explain the main challenges you believe they face in their departments?"

Written Answer: There are no changes to the Cabinet as such there is no need for a response.

COUNCIL (EXTRAORDINARY)

MINUTES

21 JANUARY 2013

- Present:**
- * Councillor Nizam Ismail (The Worshipful the Mayor)
 - * Councillor Nana Asante (The Deputy Mayor)
- Councillors:**
- | | |
|---|---|
| <ul style="list-style-type: none"> * Husain Akhtar * Sue Anderson * Marilyn Ashton * Mrs Camilla Bath * Christine Bednell * James Bond * Mrs Lurline Champagnie OBE * Kam Chana * Ramji Chauhan * Mrinal Choudhury * Bob Currie * Margaret Davine * Mano Dharmarajah * Tony Ferrari * Keith Ferry * Ann Gate † David Gawn * Stephen Greek * Mitzi Green * Susan Hall * Graham Henson * Thaya Idaikkadar * Krishna James * Manji Kara * Zarina Khalid † Jean Lammiman * Barry Macleod-Cullinane * Kairul Kareema Marikar * Ajay Maru * Jerry Miles | <ul style="list-style-type: none"> * Mrs Vina Mithani * Amir Moshenson * Chris Mote * Janet Mote * John Nickolay * Joyce Nickolay * Christopher Noyce * Phillip O'Dell * Asad Omar * Paul Osborn * Varsha Parmar * David Perry * Bill Phillips * Raj Ray * Richard Romain * Anthony Seymour * Lynda Seymour * Navin Shah † Mrs Rekha Shah * Sachin Shah † Stanley Sheinwald * Victoria Silver * Bill Stephenson † William Stoodley * Krishna Suresh * Sasi Suresh * Yogesh Teli * Ben Wealthy † Simon Williams * Stephen Wright |
|---|---|

- * Denotes Member present
- † Denotes apologies received

PRAYERS

The meeting opened with Prayers offered by Imam Anas Mohamed.

264. EXTRAORDINARY COUNCIL

RESOLVED: To note that this Extraordinary Council meeting had been convened in accordance with Rule 3.1.

265. DECLARATIONS OF INTEREST

The Mayor invited appropriate declarations of interest.

Item 3 – Technical Reforms of Council Tax Discounts and Exemptions; Item 4 – Localisation of Council Tax Benefit

Councillor Husain Akhtar declared a non-pecuniary interest in that his children qualified for Council Tax Support.

Councillor Thaya Idaikkadar declared a non-pecuniary interest in that his mother was in receipt of Council Tax Benefit.

Councillor Chris Mote declared a non-pecuniary interest in that his brother was in receipt of Council Tax Benefit.

Councillor Janet Mote declared a non-pecuniary interest in that her brother in law was in receipt of Council Tax Benefit.

Councillors John Nickolay and Joyce Nickolay declared non-pecuniary interests in that their son was in receipt of Council Tax Benefit.

Councillor Anthony Seymour declared a non-pecuniary interest in that his sister was in receipt of Council Tax Benefit.

Councillor Lynda Seymour declared a non-pecuniary interest in that her sister in law was in receipt of Council Tax Benefit.

266. TECHNICAL REFORMS OF COUNCIL TAX DISCOUNTS AND EXEMPTIONS

Further to item 3 on the Extraordinary Summons, the Leader of the Council, Councillor Thaya Idaikkadar, moved Recommendation I of the Cabinet meeting held on 22 November 2012.

RESOLVED: That the discounts and exemptions, as set out in the detailed proposals and summarised in appendix I to these minutes, be agreed with effect from 1 April 2013.

267. LOCALISATION OF COUNCIL TAX BENEFIT

- (i) Further to item 3 on the Extraordinary Summons, the Leader of the Council, Councillor Thaya Idaikkadar, rose and moved tabled amendments to the recommendations contained at Recommendation II of the Cabinet meeting held on 13 December 2012.
- (ii) During the debate on this item, Councillor Keith Ferry moved a Motion that the question now be put. Upon a vote this Motion was carried.
- (iii) Upon the rising of 10 Councillors making the request a Roll Call Vote was held on the recommendations:

FOR: The Mayor (Councillor Ismail), the Deputy Mayor (Councillor Asante), Councillors Akhtar, Anderson, Bond, Choudhury, Currie, Davine, Dharmarajah, Ferry, Gate, Green, Henson, Idaikkadar, James, Khalid, Marikar, Maru, Miles, O'Dell, Omar, Parmar, Perry, Phillips, Ray, Navin Shah, Sachin Shah, Silver, Stephenson, Krishna Suresh, Sasikala Suresh and Wealthy.

AGAINST: Councillors Ashton, Bath, Bednell, Champagnie, Chana, Chauhan, Ferrari, Greek, Hall, Kara, Macleod-Cullinane, Mithani, Moshenson, Chris Mote, Janet Mote, John Nickolay, Joyce Nickolay, Osborn, Romain, Anthony Seymour, Lynda Seymour, Teli and Wright.

ABSTAIN: Councillor Noyce.

- (iv) Upon the Roll Call vote, the amended recommendations were agreed.

RESOLVED: That

- (i) **the new Harrow Localised Council Tax Support Scheme, at appendix II to these minutes, be agreed and adopted;**
- (ii) **the Council agree and adopt the parameter configuration set out in Scheme 1 for the two year period April 2013 to March 2015 as recommended by officers, which fully manages the funding gap, unless a policy decision is taken at annual review to replace or alter the scheme following consultation;**
- (iii) **the Scheme remain in perpetuity after the two year period, with parameters uprated as per the Scheme rules, unless a policy decision is taken to replace or alter the Scheme at annual review;**
- (iv) **the existing s13A policy on hardship agreed by Cabinet on the 3 August 2006 and now known as s13A(1)(c) be continued.**

(CLOSE OF MEETING: All business having been completed, the Mayor declared the meeting closed at 8.18 pm).

APPENDIX I

Recommendations	Current position	Proposal from 1/4/2013	Additional Ctax Generated £
<p>Proposed measure 1 Remove the Council Tax discount for properties not occupied as a main home</p>	10% discount	To reduce the discount percentage to 0%	37k
<p>Proposed measure 2 Removing the Council Tax exemption on empty properties undergoing repair or major structural alteration</p>	12 months exemption Class A exemption	To replace the exemption with a discount and to set discount at 0% for the discount period (12 months)	290k
<p>Proposed measure 3 Replace exemption for properties which are empty and unfurnished with discount</p>	6 months exemption Class C exemption	To replace the exemption with a discount and to set discount at 0% for the discount period (6 months)	621k
<p>Proposed measure 4 Removing the Council Tax exemption on properties having been re-possessed by the mortgagee</p>	These properties are exempt Class L exemption	To charge the mortgagee in possession for council tax	34k
<p>Proposed measure 5 Removing the discount on long term empty properties and charging an 'empty homes premium' of 50% on properties left empty for longer than two years</p>	0% discount	To charge a premium of 50% on top of normal council tax for properties meeting the definition of long term empty properties	118k



**London Borough of Harrow
Council Tax Support Scheme**

Introduction

This scheme is based on the Council Tax Support Schemes (Default Scheme) Regulations 2012 (“the Default Scheme”) and incorporates the statutory obligations detailed in the Council Tax Support Schemes (Prescribed Requirements) Regulations 2012 (“the Prescribed Requirements”). Certain elements of the Default Scheme have been removed or amended within this scheme and apply solely to applicants who have not reached the qualifying age for state pension credit.

This scheme has been designed to cover the years 2013/14 and 2014/15 and will remain in force for subsequent years as the authority sees fit. This scheme will be amended to take into account any changes in legislation set out by government statute. This scheme will be treated as having been amended to accommodate any changes the government may make to The Prescribed Requirements. This scheme will be reviewed annually by Harrow Council.

Principles of the scheme

Specific principles which inform this scheme have been clearly identified to reflect local priorities and national framework:

- The scheme design will be developed within the legal framework as identified in the Prescribed Requirements.
- The scheme will be developed to meet the resources made available from the Government.
- The impact on the most vulnerable should be considered and therefore be afforded a level of protection within the scheme.
- The scheme should encourage people to work and in particular should not act as a disincentive to work.

Features of the scheme

The following is a summary of the key features of the scheme as they apply (to applicants who have not reached the qualifying age for state pension credit). Further detail can be found in rule 2 (‘interpretation’) or additional rules within the scheme:

- Applicants of working-age (unless specified) will have their Council Tax Support calculated based on **77.5%** of their council tax liability in 2013/14 and on **70%** of their council tax liability in 2014/15.
- Applicants with a disability or with a family member with a disability (who fall into classes F & G as defined in this scheme) will receive some protection from the above measure. Such people will have their Council Tax Support based on **90%** of their council tax liability in 2013/14 and on **86%** of their council tax liability in 2014/15.
- All people of working age will have their Council Tax Support tapered at 30%. For every £1 per week of income above the ‘applicable amount’, Council Tax Support is reduced by 30 pence per week.
- Alternative maximum council tax support has been abolished
- Tariff income has been abolished except where we are using the calculation of income made by the Secretary of State for the purpose of determining the award of universal credit and this includes an amount derived from capital.

- When an advantageous change of an applicant's circumstances is reported to the authority more than one month from the date it occurred, it will be treated as having occurred on the date the authority was notified.
- The maximum time limit for a backdated Council Tax Support application is 3 months
- A minimum weekly Council Tax Support award of £2 has been introduced
- Non-dependant deductions have been doubled except where non-dependants are in receipt of Contribution-based Employment and Support Allowance (for whom the weekly deduction will remain at £3.30).
- A weekly non-dependant deduction of £3.30 has been introduced for non-dependants in receipt of Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Guaranteed Pension Credit, maximum award of Universal Credit.

The treatment of war pensions, war disablement pensions, war widow's pensions, war widower's pensions and payments made under the Armed Forces Compensation Scheme

- It is proposed to disregard the total sum of any such payments when calculating entitlement for all applicants. The statutory obligation under The Prescribed Requirements is to disregard the first £10 per week only of such payments in the calculation of entitlement to council tax support.

Applications

- Provisions are made relating to how applications for Council Tax Support must be made to the authority. These are specified in Part 3 and Schedule 1 of this scheme.

General administration of the scheme

Apart from where statutorily required, any award granted, removed or revised will be made by an adjustment to the council tax bill and the bill itself will be the formal notification. Harrow Council reserves the right to include additional notifications.

Any excess award of Council Tax Support will be rectified by an adjustment to the council tax bill.

Uprating

This scheme proposes that any figures set out in the scheme may be uprated, to take effect on 1st April each year following the commencement of the scheme, by the consumer price index, set out in the preceding September, or by the rate used by the government in the determination of income support or from April 2014, universal credit.

Data sharing, fraud and error

Information provided by applicants will be used by Harrow Council to process applications for Council Tax Support. Information will also be shared with other council services, Data Processors acting on the council's behalf and other partner organisations to facilitate the delivery of council services. Information may also be used to help identify other services that applicants may be entitled to or interested in and to aid collection of outstanding debts owing to the council. Information will only be shared in accordance with the authority's data sharing protocol.

Information provided by applicants will also be used by Harrow Council for the prevention and detection of fraud and may also share such information with external and internal bodies responsible for auditing or administering public funds for these purposes.

By law Harrow Council may check information provided by applicants, or information about applicants provided by others with other information held by Harrow Council. Harrow Council may also get information about applicants from certain third parties, or give information to them, to:

- make sure the information is accurate,
- prevent or detect crime, and
- protect public funds

These third parties include government departments, any partners affiliated with Harrow Council, other local authorities and private-sector organisations such as banks and credit reference agencies.

Harrow Council is the data controller for the purposes of the Data Protection Act.

Penalties

Harrow Council has a responsibility to protect taxpayers and the public purse by effectively fighting fraud.

Harrow Council takes all forms of fraud seriously and will take action to recover any money that has been claimed based on false information, a failure to provide (disclose) information or a failure to notify a change of circumstances, possession or supply of articles for use in fraud or more generally obtaining services dishonestly. Such action could include a civil penalty and/or prosecution. A successful prosecution will result in a criminal record and penalties of up to 10 years imprisonment and unlimited fines.

Harrow Council has robust information sharing protocols and specialist counter fraud staff who investigate all types of fraud against the council. This includes the ability for individuals to anonymously notify the council of a potential fraud. Contact details for reporting potential fraud are as follows:

Post:

London Borough of Harrow
3rd floor West Wing
Civic Centre
Station Road
Harrow
HA1 2XF

Email: fraud@harrow.gov.uk

Council Tax Support Scheme (Harrow Council)
Coming into force 1st April 2013

Citation, commencement and application

1. — These rules may be cited as the Council Tax Support Scheme 2013 and come into force on 1 April 2013.

These rules are decided by and apply to Harrow Council.

Council Tax Support Scheme (Harrow Council) 2013

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PART 1

Introduction

Introduction

1. These rules may be cited as the Council Tax Support Scheme 2013 and come into force on 1 April 2013. These rules are decided by and apply to Harrow Council.

PART 2

Interpretation

Interpretation

- 2.—(1) In this scheme—
- “the 1992 Act” means the Local Government Finance Act 1992;
 - “Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or unincorporated which are affiliated to that society;
 - “adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(1);
 - “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(2);
 - “alternative maximum council tax support” means the amount determined in accordance with paragraph 31 and Schedule 4;
 - “appeal” means an appeal to the Valuation Tribunal
 - “applicable amount” means—
 - (a) in relation to a pensioner, the amount calculated in accordance with paragraph 25 and Schedule 2, and
 - (b) in relation to a person who is not a pensioner, the amount calculated in accordance with—
 - (i) paragraph 26 and Schedule 3; or
 - (ii) paragraph 28,as the case may be;
 - “applicant” means a person who has made an application; “application” means an application for a support under this scheme; “assessment period” means
 - (a) in relation to pensioners—
 - (i) in relation to the earnings of a self-employed earner, the period determined in accordance with paragraph 43 for the purpose of calculating the weekly earnings of the applicant; or
 - (ii) in relation to any other income, the period determined in accordance with paragraph 40 for the purpose of calculating the weekly income of the applicant;
 - (b) in relation to persons who are not pensioners, such period as is set out in paragraphs 47 to 49 over which income falls to be calculated;
 - “attendance allowance” means—
 - (a) an attendance allowance under Part 3 of the SSCBA(3);
 - (b) an increase of disablement pension under section 104 or 105 of that Act;

(c) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(4) or any analogous payment; or

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

“the authority” means the London Borough of Harrow by virtue of paragraph 4(6) of Schedule 1A to the 1992 Act;

“basic rate” has the meaning given by the Income Tax Act 2007(5);

“the benefit Acts” means the SSCBA, the Jobseekers Act 1995(6), the State Pension Credit Act 2002(7) and the Welfare Reform Act 2007(8);

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

“care home” has the meaning given by section 3 of the Care Standards Act 2000(9) and in Scotland means a care home service within the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001(10) and in Northern Ireland means a nursing home within the meaning of Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(11) or a residential care home within the meaning of Article 10 of that Order;

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

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

“child benefit” has the meaning given by section 141 of the SSCBA(12);

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(13);

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

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act 2002(14) are charged;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act 2007(15);

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

“couple” has the meaning given by paragraph 4;

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

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

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

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

“disability living allowance” means a disability living allowance under section 71 of the SSCBA(16)

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

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

“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(17);

“employed earner” is to be construed in accordance with section 2(1)(a) of the SSCBA(18) and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

“the Employment, Skills and Enterprise Scheme” means a scheme under section 17A (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.) of the Jobseekers Act 1995(19) known by that name and provided pursuant to arrangements made by the Secretary of State that is designed to assist claimants for job-seekers allowance to obtain employment, including self-employment, and which may include for any individual work-related activity (including work experience or job search);

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(20) and an “employment zone programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

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

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

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

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

“family” has the meaning given by paragraph 6;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

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

“a guaranteed income payment” means a payment made under article 15(1)(c) (injury benefits) or 29(1)(a) (death benefits) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(21);

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

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the meanings given by section 1(4) of the Jobseekers Act 1995(22);

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

“independent hospital”—

- (a) in England means a hospital as defined by section 275 of the National Health Service Act 2006(23) that is not a health service hospital as defined by that section;
- (b) in Wales has the meaning given by section 2 of the Care Standards Act 2000(24); and
- (c) in Scotland means an independent health care service as defined by section 10F of the National Health Service (Scotland) Act 1978(25);

“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the

one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;

“invalid carriage or other vehicle” means a vehicle propelled by a petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072), and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

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

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

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

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

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the applicant includes a component under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007(26) except in Part 1 of Schedule 3;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996(27);

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

“member of a couple” means a member of a married or unmarried couple;

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

“mobility supplement” means—

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

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

“mover” means an applicant who changes the dwelling in which the applicant is resident, and in respect of which the applicant is liable to pay council tax, from a dwelling in the area of the authority to a dwelling in the area of a second authority;

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

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

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

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

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

- (a) meeting, or helping to meet an immediate short-term need—
 - (i) arising out of an exceptional event or exceptional circumstances, or
 - (ii) that needs to be met to avoid a risk to the well-being of an individual, and
- (b) enabling qualifying individuals to establish or maintain a settled home, and—
 - (i) “local authority” has the meaning given by section 270(1) of the Local Government Act 1972(28); 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(29);

“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(30);

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

- (a) where that person is a member of a couple, the other member of that couple;
- (b) subject to paragraph (c), where that person is polygamously married to two or more members of his household, any such member to whom he is married; or
- (c) where that person is polygamously married and has an award of universal credit with the other party to the earliest marriage that still subsists, that other party to the earliest marriage;

“paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act(31);

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

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(32);

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

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

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

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

“personal independence payment” has the meaning given by Part 4 of the Welfare Reform Act 2012(33)

“personal pension scheme” means—

- (a) a personal pension scheme as defined by section 1 of the Pension Schemes Act 1993(34); (b) an annuity contract or trust scheme approved under section 620 or 621 of the Income and Corporation Taxes Act 1988(35) or a substituted contract within the meaning of section

622(3) of that Act which is treated as having become a registered pension scheme by virtue of paragraph 1(1)(f) of Schedule 36 to the Finance Act 2004(36);

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

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

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

“protected” has the meaning as defined in paragraph 3 (c) of this scheme

“qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(37))—

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

“qualifying contributory benefit” means—

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

“qualifying income-related benefit” means—

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

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

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

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

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

“rent” means “eligible rent” to which regulation 12 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(38) refer, less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions);

“savings credit” is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002(39);

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

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

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

- (a) an employment zone programme;
- (b) a programme provided by or under arrangements made pursuant to section 2 of the Employment and Training Act 1973(40) (functions of the Secretary of State) or section 2

of the Enterprise and New Towns (Scotland) Act 1990(41) (functions in relation to training for employment, etc.); or

(c) the Employment, Skills and Enterprise Scheme;

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

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978(42);
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985(43);
- (c) a public authority in Northern Ireland in consequence of a function under section 49A of the Disability Discrimination Act 1995(44);
- (d) a public authority in consequence of a function under section 149 of the Equality Act 2010(45);
- (e) a best value authority in consequence of a function under section 3 of the Local Government Act 1999(46);
- (f) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001(47);
- (g) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006(48);
- (h) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006(49);
- (i) the Care Quality Commission in exercise of a function under section 4 or 5 of the Health and Social Care Act 2008(50);
- (j) the regulator or a private registered provider of social housing in consequence of a function under section 98, 193 or 196 of the Housing and Regeneration Act 2008(51); or
- (k) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

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

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

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

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(52) out of sums allocated to it for distribution under that section;

“the SSCBA” means the Social Security Contributions and Benefits Act 1992(53);

“state pension credit” means state pension credit under the State Pension Credit Act 2002(54);

“student” has the meaning given by paragraph 73;

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

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Skills Development Scotland, Scottish Enterprise or Highlands and Islands

Enterprise, the Chief Executive of Skills Funding or the Welsh Ministers;

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

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the Employment and Training Act 1973(55), or is training as a teacher;

“the Trusts” (except where the context otherwise requires) means the Macfarlane Trust, the Macfarlane (Special Payments) Trust and the Macfarlane (Special Payments) (No. 2) Trust and “Trustees” is to be construed accordingly;

“universal credit” has the meaning given by section 1 of the Welfare Reform Act 2012(56);

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

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(57);

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

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

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

“water charges” means—

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(58),

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(59),

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

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002(60);

“young person” means a person who falls within the definition of qualifying young person in section 142 of the SSCBA(61).

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

(3) For the purpose of this scheme, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

(a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid because of support in accordance with section 19 or 19A or regulations made under section 17A or 19B of the Jobseekers Act 1995(62) (circumstances in which a jobseeker’s allowance is not payable);

(b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and

which falls immediately before a day in respect of which an income-based jobseeker's allowance is payable to him or would be payable to him but for section 19 or 19A or regulations made under section 17A or 19B of that Act; or

- (c) in respect of which an income-based jobseeker's allowance would be payable but for a restriction imposed pursuant to section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001(63) (loss of benefit provisions).

(4) For the purposes of this scheme, a person is on an income-related employment and support allowance on any day in respect of which an income-related employment and support allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-related employment and support allowance but where the allowance is not paid in accordance with section 18 of the Welfare Reform Act 2007(64) (disqualification); or
- (b) which is a waiting day for the purposes of paragraph 2 of Schedule 2 to that Act (employment and support allowance: supplementary provisions) and which falls immediately before a day in respect of which an income-related employment and support allowance is payable to him or would be payable to him but for section 18 of that Act.

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

(6) In this scheme, references to any person in receipt of state pension credit includes a person who would be in receipt of state pension credit but for regulation 13 of the State Pension Credit Regulations 2002(65) (small amounts of state pension credit).

Application of scheme: pensioners and persons who are not pensioners

3.—(1) This scheme applies to—

- (a) pensioners who fall within any of classes A to C(66); and
- (b) persons who are not pensioners who fall within any of classes D to E(67).
- (c) persons who are not pensioners who fall within any of classes F to G(68)

(2) In this scheme—

- (a) a person is a “pensioner” if—
 - (i) he has attained the qualifying age for state pension credit; and
 - (ii) he is not, or, if he has a partner, his partner is not—
 - (aa) a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance, or
 - (bb) a person with an award of universal credit; and
- (b) a person is a “person who is not a pensioner” if—
 - (i) he has not attained the qualifying age for state pension credit; or
 - (ii) he has attained the qualifying age for state pension credit and he, or if he has a partner, his partner, is—
 - (aa) a person on income support, on an income-based jobseeker's allowance or on an income-related employment and support allowance, or
 - (bb) a person with an award of universal credit.

(c) a person falls into classes F to G if the applicant, a partner or other member of the family, where ‘family’ has the meaning given by paragraph 6 of this scheme receives one of the following: Disability Living Allowance (any component), has an invalid vehicle supplied by the National Health Service or gets Department of Work and Pensions payments for car running costs, Employment Support

Allowance (Support group), Incapacity Benefit, Mobility Supplement, Severe Disablement Allowance, Personal Independence Payment, Armed Forces Independence Payment (AFIP) or a disability banding reduction has been granted for the property; or the customer or partner is registered blind ; or the applicant or partner who receives a War Pension..

Meaning of “couple”

4.—(1) In this scheme “couple” means—

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

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

Polygamous marriages

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

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

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

Meaning of “family”

6.—(1) In this scheme “family” means—

- (a) a couple;
- (b) a couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person; or
- (c) a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a young person.

(2) The references to a child or young person in sub-paragraph (1)(b) and (c) include a child or young person in respect of whom section 145A of the SSCBA(69) applies for the purposes of entitlement to child benefit, but only for the period prescribed under section 145A(1).

(3) The references to a young person in sub-paragraph (1)(b) and (c) do not include a young person who is—

- (a) on income support, an income-based jobseeker’s allowance or an income-related employment and support allowance, or has an award of universal credit; or
- (b) a person to whom section 6 of the Children (Leaving Care) Act 2000(70) (exclusion from benefits) applies.

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

7.—(1) A person is to be treated as responsible for a child or young person who is normally living with him, including a child or young person to whom paragraph 6(2) applies.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person must be treated for the purposes of sub-paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of that child or young person, or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of this scheme a child or young person is the responsibility of only one person in any support week and any person other than the one treated as responsible for the child or young person under this paragraph is to be treated as not so responsible.

Households

8.—(1) Subject to sub-paragraphs (2) and (3), an applicant and any partner and, where the applicant or his partner is treated (by virtue of paragraph 7) as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household notwithstanding that any of them is temporarily absent from that household.

(2) A child or young person is not to be treated as a member of the applicant's household where he is—

- (a) placed with the applicant or his partner by a local authority under section 22C or 23(2)(a) of the Children Act 1989(71) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the applicant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the applicant or his partner prior to adoption; or
- (c) placed for adoption with the applicant or his partner in accordance with the Adoption and Children Act 2002(72) or the Adoption Agencies (Scotland) Regulations 2009(73) or the Adoption (Northern Ireland) Order 1987(74).

(3) Subject to sub-paragraph (4), sub-paragraph (1) does not apply to a child or young person who is not living with the applicant and who—

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

(4) The authority must treat a child or young person to whom sub-paragraph (3)(a) applies as being a member of the applicant's household in any support week where—

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

(5) In this paragraph "relevant enactment" means—

- (a) the Army Act 1955(75);
- (b) the Air Force Act 1955(76);
- (c) the Naval Discipline Act 1957(77);
- (d) the Matrimonial Proceedings (Children) Act 1958(78);
- (e) the Social Work (Scotland) Act 1968(79);
- (f) the Family Law Reform Act 1969(80);
- (g) the Children and Young Persons Act 1969(81);
- (h) the Matrimonial Causes Act 1973(82);
- (i) the Children Act 1975(83);
- (j) the Domestic Proceedings and Magistrates' Courts Act 1978(84);
- (k) the Adoption and Children (Scotland) Act 2007(85);
- (l) the Family Law Act 1986(86);
- (m) the Children Act 1989;
- (n) the Children (Scotland) Act 1995(87); and
- (o) the Legal Aid, Sentencing and Punishment of Offenders Act 2012(88).

Non-dependants

9.—(1) In this scheme, “non-dependant” means any person, except someone to whom sub-paragraph (2) applies, who normally resides with an applicant or with whom an applicant normally resides.

(2) This paragraph applies to—

- (a) any member of the applicant’s family;
- (b) if the applicant is polygamously married—
 - (i) where the applicant has (alone or jointly with his partner) an award of universal credit, any—
 - (aa) party to such a marriage other than the applicant’s partner; and
 - (bb) any child or young person who is a member of his household and for whom he or his partner or another party to the polygamous marriage is responsible; or
 - (ii) in any other case, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
- (c) a child or young person who is living with the applicant but who is not a member of his household by virtue of paragraph 8 (households);
- (d) subject to sub-paragraph (3), any person who, with the applicant, is jointly and severally liable to pay council tax in respect of a dwelling for any day under section 6 or 7 of the 1992 Act (persons liable to pay council tax);
- (e) subject to sub-paragraph (3), any person who is liable to make payments on a commercial basis to the applicant or the applicant’s partner in respect of the occupation of the dwelling;
- (f) a person who lives with the applicant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the applicant or his partner for the services provided by that person.

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

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

- (i) that person is a close relative of his or his partner; or
 - (ii) the tenancy or other agreement between them is other than on a commercial basis;
- (b) a person whose liability to make payments in respect of the dwelling appears to the authority to have been created to take advantage of a council tax support scheme except someone who was, for any period within the eight weeks prior to the creation of the agreement giving rise to the liability to make such payments, otherwise liable to make payments of rent in respect of the same dwelling;
- (c) a person who becomes jointly and severally liable with the applicant for council tax in respect of a dwelling and who was, at any time during the period of eight weeks prior to his becoming so liable, a non-dependant of one or more of the other residents in that dwelling who are so liable for the tax, unless the change giving rise to the new liability was not made to take advantage of this scheme.

Remunerative work

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

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

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

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

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

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

(6) A person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance for more than 3 days in any support week is to be treated as not being in remunerative work in that week.

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

(8) A person must not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to him; and
- (b) no other payment is made or is expected to be made to him.

PART 3

Procedural matters

Procedure for support applications and appeals against support decisions

11. Schedule 1 contains provisions about the procedure—

- (a) by which a person may apply for support under this scheme;
- (b) by which a person may make an appeal against certain decisions of the authority;
- (c) by which a person can apply to the authority for support under section 13A(1)(c) of the 1992 Act.

PART 4

Classes of person entitled to support under this scheme

Classes of person entitled to support under this scheme

12.—(1) The classes of person described in paragraphs 13 to 18 are entitled to support under this scheme.

(2) In those paragraphs, references to the applicant's income or capital include, in a case where that income or capital cannot accurately be determined, references to the applicant's estimated income or capital.

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

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident⁽⁸⁹⁾;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme; (e) whose income (if any) for the relevant week does not exceed his applicable amount, and (f) who has made an application.

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

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme; (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—

- (i) amount A is the maximum council tax support in respect of the day in the applicant's case; and
- (ii) amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.

Class C: alternative maximum council tax support – pensioners

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

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme; (e) who has made an application; and
- (f) in relation to whom the condition in sub-paragraph (2) is met.

(2) The condition referred to in sub-paragraph (1)(f) is that no other resident of the dwelling is liable to pay rent to the applicant in respect of the dwelling and there is an alternative maximum council tax support in respect of the day in the case of that person which is derived from the income, or aggregate incomes, of one or more residents to whom this sub-paragraph applies.

(3) Sub-paragraph (2) applies to any other resident of the dwelling who—

- (a) is not a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount;
- (b) is not a person who is liable for council tax solely in consequence of the provisions of section 9 of the 1992 Act (spouse's or civil partner's joint and several liability for tax);
- (c) is not a person who is residing with a couple or with the members of a polygamous marriage where the applicant is a member of that couple or of that marriage and—
 - (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act (persons disregarded for the purposes of discount), falls to be disregarded for the purposes of discount; or
 - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;
- (d) is not a person who jointly with the applicant falls within the same paragraph of section 6(2)(a) to (e) of the 1992 Act (persons liable to pay council tax) as applies in the case of the applicant; or
- (e) is not a person who is residing with two or more persons both or all of whom fall within the same paragraph of section 6(2)(a) to (e) of the 1992 Act where two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount.

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

16. On any day class D consists of any person who is not a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;

- (c) in respect of whom maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme; (e) whose income (if any) for the relevant week does not exceed his applicable amount, and
- (f) who has made an application.

(g) any such person identified in 16(a), 16(b), 16(c), 16 (d), 16 (e) and 16(f) shall not be entitled to an award of council tax support if, once calculated, their award would have been less than £2 per week.

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

17. On any day class E consists of any person who is not a pensioner—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19 (periods of absence from a dwelling), is not absent from the dwelling throughout the day;
- (c) in respect of whom maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme;
- (e) whose income for the relevant week is greater than his applicable amount;
- (f) in respect of whom amount A exceeds amount B where—
 - (i) amount A is the maximum council tax support in his case; and
 - (ii) amount B is 4 2/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (g) who has made an application.
- (h) any such person identified in 17(a), 17(b), 17(c), 17 (d), 17 (e), 17(f) and 17(g) shall not be entitled to an award of council tax support if, once calculated, their award would have been less than £2 per week.

Class F: persons who are not pensioners who are regarded as a ‘protected’ group under this scheme whose income is less than the applicable amount

18 (A) 1. On any day class F consists of any person who is not a pensioner who satisfies the conditions set out in paragraph 3 (c)—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to support under this scheme;
- (e) whose income (if any) for the relevant week does not exceed his applicable amount calculated in accordance with paragraph 25 and Schedule 3, and
- (f) who has made an application for support under this scheme.
- (g) any such person identified in 18A(a), 18A(b), 18A(c), 18A(d), 18A(e), 18A(f) shall not be entitled to an award of council tax support if, once calculated, their award would have been less than £2 per week.

Class G: persons who are not pensioners whose income is greater than the applicable amount who are regarded as a ‘protected’ group under this scheme

18 (B) 1. - On any day class G consists of any person who is not a pensioner who satisfies the conditions set out in paragraph 3 (c)—

- (a) who is for that day liable to pay council tax in respect of a dwelling of which he is a resident;
- (b) who, subject to paragraph 19, is not absent from the dwelling throughout the day;
- (c) in respect of whom a maximum council tax support amount can be calculated;
- (d) who does not fall within a class of person not entitled to a support under this scheme;
- (f) whose income for the relevant week is greater than his applicable amount calculated in accordance with paragraph 25 and Schedule 3;
- (g) in respect of whom amount A exceeds amount B where—
- (h) amount A is the maximum council tax support in his case; and
- (i) amount B is 4 2/7 per cent of the difference between his income for the relevant week and his applicable amount, and
- (j) who has made an application for a support under this scheme.
- (k) any such person identified in 18B(a), 18B(b), 18B(c), 18B(d), 18B(e), 18B(f), 18B(g), 18B(h), 18B(i) and 18B(j) shall not be entitled to an award of council tax support if, once calculated, their award would have been less than £2 per week.

Periods of absence from a dwelling

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

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

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

circumstances, is unlikely substantially to exceed that period.

- (3) This sub-paragraph applies to a person who—
- (a) is detained in custody on remand pending trial or required, as a condition of bail, to reside—
 - (i) in a dwelling, other than the dwelling referred to in sub-paragraph (1), or
 - (ii) in premises approved under section 13 of the Offender Management Act 2007(90),or is detained in custody pending sentence upon conviction;
 - (b) is resident in a hospital or similar institution as a patient;
 - (c) is undergoing, or whose partner or dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation;
 - (d) is following, in the United Kingdom or elsewhere, a training course;
 - (e) is undertaking medically approved care of a person residing in the United Kingdom or elsewhere;
 - (f) is undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment;
 - (g) is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation;
 - (h) is a student;
 - (i) is receiving care provided in residential accommodation and is not a person to whom sub-paragraph (2)(a) applies; or
 - (j) has left the dwelling he resides in through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned.
- (4) This sub-paragraph applies to a person who is—
- (a) detained in custody pending sentence upon conviction or under a sentence imposed by a court (other than a person who is detained in hospital under the provisions of the Mental Health Act 1983(91), or, in Scotland, under the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003(92) or the Criminal Procedure (Scotland) Act 1995(93) or, in Northern Ireland, under Article 4 or 12 of the Mental Health (Northern Ireland) Order 1986(94)); and
 - (b) on temporary release from detention in accordance with Rules made under the provisions of the Prison Act 1952(95) or the Prisons (Scotland) Act 1989(96).
- (5) Where sub-paragraph (4) applies to a person, then, for any day when he is on temporary release—
- (a) if such temporary release was immediately preceded by a period of temporary absence under sub-paragraph (2)(b) or (c), he must be treated, for the purposes of sub-paragraph (1), as if he continues to be absent from the dwelling, despite any return to the dwelling;
 - (b) for the purposes of sub-paragraph (3)(a), he must be treated as if he remains in detention; (c) if he does not fall within paragraph (a), he is not to be considered to be a person who is liable to pay council tax in respect of a dwelling of which he is a resident.
- (6) In this paragraph—
- “medically approved” means certified by a medical practitioner;
 - “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
 - “residential accommodation” means accommodation which is provided in—

- (a) a care home;
- (b) an independent hospital;
- (c) an Abbeyfield Home; or
- (d) an establishment managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Skills Development Scotland, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.

PART 5

Classes of person excluded from this scheme

Classes of person excluded from this scheme

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

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

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

(2) Except where a person falls within sub-paragraph (5) or (6), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(3) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

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

- (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive No 2004/38/EC(97); or
- (b) regulation 15A(1) of the EEA Regulations, but only in a case where the right exists under that regulation because the applicant satisfies the criteria in paragraph (4A) of that regulation or Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European Union citizen)(98).

(5) A person falls within this sub-paragraph if the person is—

- (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
- (b) a family member of a person referred to in paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
- (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
- (d) a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;

- (e) a person granted limited leave to enter or remain in the United Kingdom outside the provisions of the rules made under section 3(2) of the Immigration Act 1971(99) on the rejection of their claim for asylum;
- (f) a person who has humanitarian protection granted under those rules; or
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999(100) and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

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

(7) A person mentioned in sub-paragraph (6) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before the posting or the first of consecutive postings, habitually resident in the United Kingdom.

(8) In this paragraph—

“claim for asylum” has the same meaning as in section 94(1) of the Immigration and Asylum Act 1999(101);

“EEA Regulations” means the Immigration (European Economic Area) Regulations 2006(102).

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

22.—(1) Persons subject to immigration control are not entitled to support under this scheme.

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

Class of person excluded from this scheme: capital limit

23.—(1) The class of person described in this paragraph consists of any person whose capital exceeds £16,000(103).

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

Class of person excluded from this scheme: students

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

PART 6

Applicable amounts

Applicable amounts: pensioners

25.—(1) The applicable amount for a pensioner(104) for a week is the aggregate of such of the following amounts as apply in his case—

- (a) an amount in respect of his personal allowance, determined in accordance with paragraph 1 of Schedule 2 (personal allowance);
- (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 2 of that Schedule (child or young person amounts);

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- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with paragraph 3 of that Schedule (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums).

(2) In Schedule 2—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(105).

Applicable amounts: persons who are not pensioners

26.—(1) Subject to paragraphs 27 and 28, the applicable amount for a week for a person who is not a pensioner is the aggregate of such of the following amounts as may apply in his case—

- (a) an amount in respect of himself or, if he is a member of a couple, an amount in respect of both of them, determined in accordance with paragraph 1 of Schedule 3;
- (b) an amount in respect of any child or young person who is a member of his family, determined in accordance with paragraph 3 of that Schedule;
- (c) if he is a member of a family of which at least one member is a child or young person, an amount determined in accordance with Part 2 of that Schedule (family premium);
- (d) the amount of any premiums which may be applicable to him, determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (e) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component,
 which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components(106));
- (f) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

(2) In Schedule 3—

“additional spouse” means a spouse by the party to the marriage who is additional to the party to the marriage;

“converted employment and support allowance” means an employment and support allowance which is not income-related and to which a person is entitled as a result of a conversion decision within the meaning of the Employment and Support Allowance (Existing Awards) Regulations 2008(107);

“patient” means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005(108).

Polygamous marriages: persons who are not pensioners

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

(2) The applicable amount for a week of an applicant where this paragraph applies is the aggregate of such of the following amounts as may apply in his case—

- (a) the amount applicable to him and one of his partners determined in accordance with paragraph 1(3) of Schedule 3 as if he and that partner were a couple;
- (b) an amount equal to the difference between the amounts specified in sub-paragraphs (3) and (1)(b) of paragraph 1 of that Schedule in respect of each of his other partners;
- (c) an amount determined in accordance with paragraph 2 of that Schedule (main phase employment and support allowance) in respect of any child or young person for whom he or a partner of his is responsible and who is a member of the same household;
- (d) if he or another partner of the polygamous marriage is responsible for a child or young person who is a member of the same household, the amount specified in Part 2 of that Schedule (family premium);
- (e) the amount of any premiums which may be applicable to him determined in accordance with Parts 3 and 4 of that Schedule (premiums);
- (f) the amount of either the—
 - (i) work-related activity component; or
 - (ii) support component,
 which may be applicable to him in accordance with Parts 5 and 6 of that Schedule (the components);
- (g) the amount of any transitional addition which may be applicable to him in accordance with Parts 7 and 8 of that Schedule (transitional addition).

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

28.—(1) Subject to sub-paragraph (2), in determining the applicable amount for a week of an applicant who is not a pensioner—

- (a) who has, or
- (b) who (jointly with his partner) has,

an award of universal credit, the authority must use the calculation or estimate of the maximum amount of the applicant, or the applicant and his partner jointly (as the case may be), subject to the adjustment described in sub-paragraph (3).

(2) In determining the applicable amount for a week of an applicant who is a member of a polygamous marriage, the fact that two people are husband and wife is to be disregarded if—

- (a) one of them is a party to an earlier marriage that still subsists; and
- (b) the other party to that earlier marriage is living in the same household.

(3) The adjustment referred to in sub-paragraph (1) is to multiply the maximum amount by 12 and divide the product by 52.

(4) In this paragraph “maximum amount” means the maximum amount calculated by the Secretary of State in accordance with section 8(2) of the Welfare Reform Act 2012(109).

PART 7

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

Maximum council tax support amount under this scheme: pensioners who fall in classes A to C.

29.—(1) Subject to sub-paragraphs (2) to (4), a person’s maximum council tax support amount in respect of a day is 100 per cent of the amount A/B where—

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

less any deductions in respect of non-dependants which fall to be made under paragraph 30 (non-dependant deductions: pensioners).

(2) In calculating a person's maximum council tax support under this scheme any support in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than support under this scheme), is to be taken into account.

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax support in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax, where the applicant is a person who is not a pensioner, does not include a student to whom paragraph 75(1) (entitlement of students to support under this scheme) applies.

(6) In this paragraph "relevant financial year" means, in relation to any particular day, the financial year within which the day in question falls.

Maximum council tax support under this scheme: persons who are not pensioners who fall into classes D and E as specified in Part 4 paragraphs 16 and 17

29A (i).—(1) Subject to sub-paragraphs (2) to (4), the amount of a person's maximum council tax in the financial year 2013/14 support in respect of a day is 77.5 per cent of the amount A/B where—

29A (ii).—(1) Subject to sub-paragraphs (2) to (4), the amount of a person's maximum council tax in the financial year 2014/15 support in respect of a day is 70 per cent of the amount A/B where—

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

less any deductions in respect of non-dependants which fall to be made under paragraph 29 (nondependent deductions: pensioners).

(2) In calculating a person's maximum council tax support under this scheme any support in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than support under this scheme), is to be taken into account.

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax support in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and

severally liable for council tax does not include a student to whom paragraph 73(2) applies.

(6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

Maximum council tax support under this scheme: persons who are not pensioners who fall into classes F and G as specified in Part 4 paragraphs 18A and 18B

29B (i).—(1) Subject to sub-paragraphs (2) to (4), the amount of a person’s maximum council tax support in the financial year 2013/14 in respect of a day is 90 per cent of the amount A/B where—

29B (ii).—(1) Subject to sub-paragraphs (2) to (4), the amount of a person’s maximum council tax support in the financial year 2014/15 in respect of a day is 86 per cent of the amount A/B where—

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

(b) B is the number of days in that financial year,

less any deductions in respect of non-dependants which fall to be made under paragraph 29 (nondependent deductions: pensioners).

(2) In calculating a person’s maximum council tax support under this scheme any support in the amount that person is liable to pay in respect of council tax, which is made in consequence of any enactment in, or made under, the 1992 Act (other than support under this scheme), is to be taken into account.

(3) Subject to sub-paragraph (4), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the maximum council tax support in his case in accordance with sub-paragraph (1), the amount A is to be divided by the number of persons who are jointly and severally liable for that tax.

(4) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, sub-paragraph (3) does not apply in his case.

(5) The reference in sub-paragraph (3) to a person with whom an applicant is jointly and severally liable for council tax does not include a student to whom paragraph 73(2) applies.

(6) In this paragraph “relevant financial year” means, in relation to any particular day, the financial year within which the day in question falls.

Non-dependant deductions: pensioners

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

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

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

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

(a) less than £186.00, the deduction to be made under this paragraph is that specified in sub-paragraph (1)(b);

(b) not less than £186.00 but less than £322.00, the deduction to be made under this paragraph is £7.25;

(c) not less than £322.00 but less than £401.00, the deduction to be made under this

paragraph is £9.15.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case may be, members of a polygamous marriage (other than where there is an award of universal credit) and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

- (a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;
- (b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and
- (c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons,

the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or
- (b) receiving in respect of himself—
 - (i) attendance allowance, or would be receiving that allowance but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (ii) the care component of the disability living allowance, or would be receiving that component but for—
 - (aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (bb) an abatement as a result of hospitalisation; or
 - (iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients); or
 - (iv) an AFIP, or would be receiving that payment but for a suspension of it in accordance with any terms of the armed and reserve forces compensation scheme which allows for a suspension because a person is undergoing medical treatment in a hospital or similar institution.

(7) No deduction is to be made in respect of a non-dependant if—

- (a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) he is a full-time student within the meaning of Part 11 (students); or

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- (d) he is not residing with the applicant because he has been a patient for a period in excess of 52 weeks, and for these purposes—
 - (i) “patient” has the meaning given in paragraph 19(6), and
 - (ii) where a person has been a patient for two or more distinct periods separated by one or more intervals each not exceeding 28 days, he is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.
- (8) No deduction is to be made in respect of a non-dependant—
 - (a) who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance; or
 - (b) to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.
- (9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant’s weekly gross income—
 - (a) any attendance allowance, disability living allowance, personal independence payment or an AFIP received by him;
 - (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
 - (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

Non-dependant deductions: persons who are not pensioners

30A.—(1) Subject to the following provisions of this paragraph, the non-dependant deductions in respect of a day referred to in paragraph 28 are—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, $\pounds 19.80 \times 1/7$;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraphs (a) and (c) do not apply,
 $\pounds 6.60 \times 1/7$.
- (c) in respect of a non-dependant aged 18 or over who is on income support, state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance, maximum award of universal credit $\pounds 3.30 \times 1/7$

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

- (a) less than $\pounds 186.00$, the deduction to be made under this paragraph is that specified in subparagraph (1)(b);
- (b) not less than $\pounds 186.00$ but less than $\pounds 322.00$, the deduction to be made under this paragraph is $\pounds 13.10$;
- (c) not less than $\pounds 322.00$ but less than $\pounds 401.00$, the deduction to be made under this paragraph is $\pounds 16.50$.

(3) Only one deduction is to be made under this paragraph in respect of a couple or, as the case

may be, members of a polygamous marriage and, where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount is to be deducted.

(4) In applying the provisions of sub-paragraph (2) in the case of a couple or, as the case may be, a polygamous marriage, regard must be had, for the purpose of that sub-paragraph, to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where in respect of a day—

(a) a person is a resident in a dwelling but is not himself liable for council tax in respect of that dwelling and that day;

(b) other residents in that dwelling (the liable persons) have joint and several liability for council tax in respect of that dwelling and that day otherwise than by virtue of section 9 of the 1992 Act (liability of spouses and civil partners); and

(c) the person to whom paragraph (a) refers is a non-dependant of two or more of the liable persons,

the deduction in respect of that non-dependant must be apportioned equally between those liable persons.

(6) No deduction is to be made in respect of any non-dependants occupying an applicant's dwelling if the applicant or his partner is—

(a) blind or treated as blind by virtue of paragraph 10 of Schedule 3 (additional condition for the disability premium); or

(b) receiving in respect of himself—

(i) attendance allowance, or would be receiving that allowance but for—

(aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or

(bb) an abatement as a result of hospitalisation; or

(ii) the care component of the disability living allowance, or would be receiving that component but for—

(aa) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or

(bb) an abatement as a result of hospitalisation; or

(iii) the daily living component of personal independence payment, or would be receiving that allowance but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients).

(7) No deduction is to be made in respect of a non-dependant if—

(a) although he resides with the applicant, it appears to the authority that his normal home is elsewhere; or

(b) he is in receipt of a training allowance paid in connection with youth training established under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990; or

(c) he is a full-time student within the meaning of Part 11 (students); or

(d) he is not residing with the applicant because he has been a patient for a period in excess

of 52 weeks, and for these purposes—

(i) “patient” has the meaning given in paragraph 19(6) of 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 is to be treated as having been a patient continuously for a period equal in duration to the total of those distinct periods.

(8) No deduction is to be made in respect of a non-dependant—
to whom Schedule 1 to the 1992 Act applies (persons disregarded for purposes of discount) but this paragraph does not apply to a non-dependant who is a student to whom paragraph 4 of that Schedule refers.

(9) In the application of sub-paragraph (2) there is to be disregarded from the non-dependant’s weekly gross income—

(a) any attendance allowance, disability living allowance, personal independence payment or Armed Forces Independence payment received by him;

(b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 53 (calculation of income other than earnings: persons who are not pensioners), 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 paragraph 53, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

PART 8

Alternative maximum council tax support for the purposes of calculating eligibility for support under this scheme and amount of support

Alternative maximum council tax support under this scheme: pensioners

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

(2) Subject to sub-paragraph (3), where an applicant is jointly and severally liable for council tax in respect of a dwelling in which he is resident with one or more other persons, in determining the alternative maximum council tax support in his case, the amount determined in accordance with Schedule 4 must be divided by the number of persons who are jointly and severally liable for that tax.

(3) Where an applicant is jointly and severally liable for council tax in respect of a dwelling with only his partner, solely by virtue of section 9 of the 1992 Act (liability of spouses and civil partners), sub-paragraph (2) does not apply in his case.

PART 9

Amount of support under this scheme

Amount of support under this scheme: Classes A to G

32.—(1) Where a person is entitled to support under this scheme in respect of a day, the amount of the support to which he is entitled is as follows.

(2) Where the person is within class A, D or F(**110**), that amount is the amount which is the maximum council tax support in respect of the day in the applicant's case.

(3) Where the person is within class B(**111**), that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 14(f).

(3) (a) Where the person is within class E or G., that amount is the amount found by deducting amount B from amount A, where "amount A" and "amount B" have the meanings given in paragraph 17 (f) or 18(B) (h) as the case may be.

(4) Where the person is within class C(**112**), that amount is the amount which is the alternative maximum council tax support in respect of the day in the applicant's case.

(5) Sub-paragraph (6) applies where both—

(a) sub-paragraph (2) or sub-paragraph (3), and

(b) sub-paragraph (4),

(c) the applicant is a

pensioner; apply to a person.

(6) The amount of the support to which the person is entitled is whichever is the greater of—

(a) the amount of the support given by sub-paragraph (2) or sub-paragraph (3), as the case may be, and

(b) the amount of the support given by sub-paragraph (4).

PART 10

Income and capital for the purposes of calculating eligibility for support under this scheme and amount of support

CHAPTER 1

Income and capital: general

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

33.—(1) The income and capital of—

(a) an applicant; and

(b) any partner of that applicant,

is to be calculated in accordance with the provisions of this Part.

(2) The income and capital of any partner of the applicant is to be treated as income and capital of the applicant, and in this Part any reference to the applicant applies equally to any partner of that applicant.

(3) Except where paragraph 37 applies, where an applicant or the partner of an applicant is

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married polygamously to two or more members of his household—

- (a) the applicant must be treated as possessing capital and income belonging to each such member; and
- (b) the income and capital of that member is to be calculated in accordance with the following provisions of this Part in like manner as for the applicant.

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

34.—(1) Sub-paragraph (2) applies where it appears to the authority that a non-dependant and an applicant have entered into arrangements in order to take advantage of this scheme and the non-dependant has more income and capital than the applicant.

(2) Except where—

- (a) the applicant is a pensioner and is on a guarantee credit, or
- (b) the applicant is not a pensioner and is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance,

the authority must treat the applicant as possessing income and capital belonging to that non-dependant and, in such a case, any income and capital which the applicant does possess is to be disregarded.

(3) Where an applicant is treated as possessing income and capital belonging to a non-dependant under sub-paragraph (2) the income and capital of that non-dependant must be calculated in accordance with the following provisions of this Part in like manner as for the applicant and, except where the context otherwise requires, any reference to the "applicant" is to be construed for the purposes of this Part as if it were a reference to that non-dependant.

CHAPTER 2

Income and capital: pensioners in receipt of guarantee credit or savings credit

Applicant in receipt of guarantee credit: pensioners

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

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

36.—(1) In determining the income and capital of an applicant who is a pensioner and who has, or whose partner has, an award of state pension credit comprising only the savings credit, subject to the following provisions of this paragraph, the authority must use the calculation or estimate of the applicant's or as the case may be, the applicant's partner's income and capital made by the Secretary of State for the purpose of determining the award of state pension credit(**113**).

(2) Where the calculation or estimate provided by the Secretary of State includes the amount taken into account in that determination in respect of net income, the authority may only adjust that amount so far as necessary to take into account—

- (a) the amount of any savings credit payable;
- (b) in respect of any dependent children of the applicant, child care charges taken into account under paragraph 57(1)(c) (calculation of income on a weekly basis);
- (c) the higher amount disregarded under this scheme in respect of— (i)
lone parent's earnings; or
(ii) payments of maintenance, whether under a court order or not, which is made or due to be made by—

- (aa) the applicant's former partner, or the applicant's partner's former partner; or
 - (bb) the parent of a child or young person where that child or young person is a member of the applicant's family except where that parent is the applicant or the applicant's partner;
 - (d) any amount to be disregarded by virtue of paragraph 10(1) of Schedule 5 (sums disregarded from applicant's earnings: pensioners);
 - (e) the income and capital of any partner of the applicant who is treated as a member of the applicant's household under paragraph 8, to the extent that it is not taken into account in determining the net income of the person claiming state pension credit;
 - (f) paragraph 34 (circumstances in which capital and income of a non-dependant is to be treated as applicant's), if the authority determines that that provision applies in the applicant's case;
 - (g) such further support (if any) as the authority thinks fit under section 13A(1)(c) of the 1992 Act(114) (power of billing authority to reduce amount of council tax payable);
 - (h) any amount to be disregarded by virtue of paragraph 6 of Schedule 5 (exempt work).
- (3) Paragraphs 39 to 46 (calculation of income: pensioners) and 57 to 61 (calculation of income: pensioners and persons who are not pensioners) do not apply to the amount of the net income to be taken into account under sub-paragraph (1), but do apply (so far as relevant) for the purpose of determining any adjustments to that amount which the authority makes under sub-paragraph (2).
- (4) If sub-paragraph (5) applies, the authority must calculate the applicant's capital in accordance with paragraphs 63, 65 to 68 and 70 (calculation of capital: pensioners).
- (5) This sub-paragraph applies if—
- (a) the Secretary of State notifies the authority that the applicant's capital has been determined as being £16,000 or less or the authority determines his capital as being £16,000 or less;
 - (b) subsequent to that determination the applicant's capital rises to more than £16,000; and
 - (c) the increase occurs whilst there is in force an assessed income period within the meaning of sections 6 and 9 of the State Pension Credit Act 2002.

CHAPTER 3

Income and capital where there is an award of universal credit

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

37.—(1) In determining the income of an applicant—

- (a) who has, or
- (b) who (jointly with his partner) has,

an award of universal credit the authority must, subject to the following provisions of this paragraph, use the calculation or estimate of the amount of the income of the applicant, or the applicant and his partner jointly (as the case may be), made by the Secretary of State for the purpose of determining the award of universal credit.

(2) The authority must adjust the amount of the income referred to in sub-paragraph (1) by multiplying the amount by 12 and dividing the product by 52.

(3) The authority may only adjust the amount of the income as adjusted in accordance with sub-paragraph (2) so far as necessary to take into account—

- (a) the amount of the award of universal credit, determined in accordance with sub-paragraph

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

CHAPTER 4

Income: other pensioners

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

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

Meaning of "income": pensioners

39.—(1) For the purposes of classes A to C in this scheme, "income" means income of any of the following descriptions—

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income within the meaning of the State Pension Credit Act 2002;
- (d) income from annuity contracts (other than retirement pension income);
- (e) a war disablement pension or war widow's or widower's pension;
- (f) a foreign war disablement pension or war widow's or widower's pension;
- (g) a guaranteed income payment;
- (h) a payment made under article 29(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**115**), in any case where article 31(2)(c) applies;
- (i) income from capital(**116**) other than capital disregarded under Part 1 of Schedule 9;
- (j) social security benefits, other than retirement pension income or any of the following benefits—
- (i) disability living allowance;
- (ii) personal independence payment;

- (iii) an AFIP;
- (iv) attendance allowance payable under section 64 of the SSCBA (entitlement to attendance allowance);
- (v) an increase of disablement pension under section 104 (increase for constant attendance) or 105 of that Act (increase for exceptionally severe disablement);
- (vi) child benefit;
- (vii) any guardian's allowance payable under section 77 of the SSCBA (guardian's allowance);
- (viii) any increase for a dependant, other than the applicant's partner, payable in accordance with Part 4 of that Act (increases for dependants);
- (ix) any—
 - (aa) social fund payment made under Part 8 of the SSCBA (the social fund), or
 - (bb) occasional assistance;
- (x) Christmas bonus payable under Part 10 of that Act (Christmas bonus for pensioners);
- (xi) housing benefit;
- (xii) council tax benefit; (xiii) bereavement payment; (xiv) statutory sick pay;
- (xv) statutory maternity pay;
- (xvi) ordinary statutory paternity pay payable under Part 12ZA of the SSCBA(117);
- (xvii) additional statutory paternity pay payable under Part 12ZA of the SSCBA;
- (xviii) statutory adoption pay payable under Part 12ZB of that Act (statutory adoption pay);
- (xix) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland;
- (k) all foreign social security benefits which are similar to the social security benefits mentioned above;
- (l) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(118) (award for children who have reached the child's age limit), in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order (unemployability allowances: children who have reached the child's age limit), in any case where sub-paragraph (b) of that article applies;
- (m) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
- (n) payments under a scheme made under the Pneumoconiosis etc. (Worker's Compensation) Act 1979(119);
- (o) payments made towards the maintenance of the applicant by his spouse, civil partner, former spouse or former civil partner or towards the maintenance of the applicant's partner by his spouse, civil partner, former spouse or former civil partner, including payments made—
 - (i) under a court order;
 - (ii) under an agreement for maintenance; or
 - (iii) voluntarily;

- (p) payments due from any person in respect of board and lodging accommodation provided by the applicant;
- (q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (r) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;
- (s) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability;
- (t) any sum payable by way of pension out of money provided under— (i) the Civil List Act 1837(**120**), (ii) the Civil List Act 1937(**121**), (iii) the Civil List Act 1952(**122**), (iv) the Civil List Act 1972(**123**), or (v) the Civil List Act 1975(**124**);
- (u) any income in lieu of that specified in paragraphs (a) to (r);
- (v) any payment of rent made to an applicant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of the property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent;
- (w) any payment made at regular intervals under an equity release scheme;
- (x) PPF periodic payments within the meaning of section 17(1) of the State Pension Credit Act 2002.

(2) Where the payment of any social security benefit referred to in sub-paragraph (1) is subject to any deduction (other than an adjustment specified in sub-paragraph (4)) the amount to be taken into account under sub-paragraph (1) is to be the amount before the deduction is made.

(3) Where an award of any working tax credit or child tax credit is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(4) The adjustments specified in this sub-paragraph are those made in accordance with—

- (a) the Social Security (Overlapping Benefits) Regulations 1979(**125**);
- (b) the Social Security (Hospital In-Patients) Regulations 1975;
- (c) section 30DD or section 30E of the SSCBA(**126**) (reductions in incapacity benefit in respect of pensions and councillor’s allowances);
- (d) section 3 of the Welfare Reform Act 2007 (deductions from contributory employment and support allowance in respect of pensions and councillor’s allowances) and regulations made under it.

(5) In sub-paragraph (1)(w), “equity release scheme” means a loan—

- (a) made between a person (“the lender”) and the applicant;
- (b) by means of which a sum of money is advanced by the lender to the applicant by way of payments at regular intervals; and

- (c) which is secured on a dwelling in which the applicant owns an estate or interest and which he occupies as his home.

Calculation of weekly income: pensioners

40.—(1) Except in a case within sub-paragraph (2) or (4), for the purposes of calculating the weekly income of an applicant who is a pensioner, where the period in respect of which a payment is made—

- (a) does not exceed a week, the whole of that payment is to be included in the applicant's weekly income;
- (b) exceeds a week, the amount to be included in the applicant's weekly income is to be determined—
 - (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
 - (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
 - (iii) in a case where that period is a year, by dividing the amount of the payment by 52; (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Sub-paragraph (3) applies where—

- (a) the applicant's regular pattern of work is such that he does not work the same hours every week; or
- (b) the amount of the applicant's income fluctuates and has changed more than once.

(3) The weekly amount of that applicant's income is to be determined—

- (a) if, in a case to which sub-paragraph (2)(a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the applicant does no work, those periods but disregarding any other absences); or
- (b) in any other case, on the basis of—
 - (i) the last two payments if those payments are one month or more apart;
 - (ii) the last four payments if the last two payments are less than one month apart; or
 - (iii) calculating or estimating such other payments as may, in the particular circumstances of the case, enable the applicant's average weekly income to be determined more accurately.

(4) For the purposes of sub-paragraph (3)(b) the last payments are the last payments before the date the application was made or treated as made.

(5) If the applicant is entitled to receive a payment to which sub-paragraph (6) applies, the amount of that payment is to be treated as if made in respect of a period of a year.

(6) This sub-paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;
- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; and
- (c) any payment which is made on an occasional basis.

- (7) The period under which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.
- (8) Where payments are made in a currency other than Sterling, the value of the payment is to be determined by taking the Sterling equivalent on the date the payment is made.
- (9) The sums specified in Schedule 5 are to be disregarded in calculating—
- (a) the applicant's earnings; and
 - (b) any amount to which sub-paragraph (6) applies where the applicant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in sub-paragraph (6)(b).
- (10) For the purposes of sub-paragraph (9)(b), and for that purpose only, the amounts specified in sub-paragraph (6) is to be treated as though they were earnings.
- (11) Income specified in Schedule 6 is to be disregarded in the calculation of the applicant's income.
- (12) Schedule 9 (capital disregards: pensioners) has effect so that—
- (a) the capital specified in Part 1 is disregarded for the purpose of determining an applicant's income; and
 - (b) the capital specified in Part 2 is disregarded for the purpose of determining an applicant's income under paragraph 71 (calculation of tariff income from capital: pensioners).
- (13) In the case of any income taken into account for the purpose of calculating a person's income any amount payable by way of tax is disregarded.

Earnings of employed earners: pensioners

41.—(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as an employed earner who is a pensioner, means any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001(127);
- (h) statutory sick pay and statutory maternity pay payable by the employer under the SSCBA; (i) statutory paternity pay payable under Part 12ZA of that Act;
- (j) statutory adoption pay payable under Part 12ZB of that Act;
- (k) any sums payable under a contract of service—
 - (i) for incapacity for work due to sickness or injury; or

- (ii) by reason of pregnancy or confinement.
- (2) Earnings does not include—
 - (a) subject to sub-paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme;
 - (e) any payment of compensation made pursuant to an award by an employment tribunal established under the Employment Tribunals Act 1996(128) in respect of unfair dismissal or unlawful discrimination;
 - (f) any payment in respect of expenses arising out of the applicant’s participation in a service user group.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(g).

Calculation of net earnings of employed earners: pensioners

42.—(1) For the purposes of paragraph 57 (calculation of income on a weekly basis), the earnings of an applicant who is a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to paragraph 40(5) and Schedule 5 (sums to be disregarded from earnings: pensioners), be his net earnings.

(2) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (5) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of— (i)
 - income tax;
 - (ii) primary Class 1 contributions under the SSCBA;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with sub-paragraph (4) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, ordinary or additional statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

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

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

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

(5) Where the earnings of an applicant are determined under paragraph 40(2)(b) (calculation of weekly income: pensioners) his net earnings is to be calculated by taking into account those

earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 the Income Tax Act 2007(**129**) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

Calculation of earnings of self-employed earners: pensioners

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

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

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

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

Earnings of self-employed earners: pensioners

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

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

- (a) where an applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
- (b) any payment made by a local authority to an applicant—
 - (i) with whom a person is accommodated by virtue of arrangements made under section 22C or 23(2)(a) of the Children Act 1989(**130**) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995(**131**); or
 - (ii) with whom a local authority fosters a child under the Looked After Children (Scotland) Regulations 2009(**132**) or who is a kinship carer under those Regulations;
- (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
- (d) any payment made to the applicant or his partner for a person (“the person concerned”) who is not normally a member of the applicant’s household but is temporarily in his care, by—
 - (i) a local authority but excluding payments of housing benefit made in respect of the person concerned;

- (ii) a voluntary organisation;
 - (iii) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(133);
 - (iv) the National Health Service Commissioning Board or a clinical commissioning group established under section 14D of the National Health Service Act 2006(134); or
 - (v) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(135);
- (e) any sports award.

Notional income: pensioners

- 45.**—(1) An applicant who is a pensioner is to be treated as possessing—
- (a) subject to sub-paragraph (2), the amount of any retirement pension income— (i) for which no claim has been made; and (ii) to which he might expect to be entitled if a claim for it were made;
 - (b) income from an occupational pension scheme which the applicant elected to defer.
- (2) Sub-paragraph (1)(a) does not apply to the following where entitlement has been deferred— (a) a Category A or Category B retirement pension payable under sections 43 to 55 of the SSCBA;
- (b) a shared additional pension payable under section 55A of the SSCBA;
 - (c) graduated retirement benefit payable under sections 36 and 37 of the National Insurance Act 1965(136).
- (3) For the purposes of sub-paragraph (2), entitlement has been deferred—
- (a) in the case of a Category A or Category B pension, in the circumstances specified in section 55(3) of the SSCBA;
 - (b) in the case of a shared additional pension, in the circumstances specified in section 55C(3) of the SSCBA; and
 - (c) in the case of graduated retirement benefit, in the circumstances specified in section 36(4) and (4A) of the National Insurance Act 1965.
- (4) This sub-paragraph applies where a person who has attained the qualifying age for state pension credit—
- (a) is entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme;
 - (b) fails to purchase an annuity with the funds available in that scheme; and
 - (c) either—
 - (i) defers in whole or in part the payment of any income which would have been payable to him by his pension fund holder, or
 - (ii) fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
 - (iii) income withdrawal is not available to him under that scheme.
- (5) Where sub-paragraph (4) applies, the amount of any income foregone is to be treated as possessed by that person, but only from the date on which it could be expected to be acquired were an application for it to be made.
- (6) The amount of any income foregone in a case where sub-paragraph (4)(c)(i) or (ii) applies is to be the maximum amount of income which may be withdrawn from the fund and must be determined by the authority, taking account of information provided by the pension fund holder.

(7) The amount of any income foregone in a case where sub-paragraph (4)(c)(iii) applies is to be the income that the applicant could have received without purchasing an annuity had the funds held under the relevant scheme been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and is to be determined in the manner specified in sub-paragraph (6).

(8) In sub-paragraph (4), “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993.

(9) Subject to sub-paragraphs (10) and (12), a person is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to support under this scheme or increasing the amount of the support.

(10) Sub-paragraph (9) does not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(137), changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.

(11) In sub-paragraph (10), “lump sum” means a lump sum under Schedule 5 or 5A to the SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005.

(12) Sub-paragraph (9) does not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant’s participation in a service user group.

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

(14) In the case of an applicant who has, or whose partner has, an award of state pension credit comprising only the savings credit, where the authority treats the applicant as possessing any benefit at the altered rate in accordance with sub-paragraph (13), the authority must—

- (a) determine the income and capital of that applicant in accordance with paragraph 36(1) (calculation of applicant’s income in savings credit only cases: pensioners) where the calculation or estimate of that income and capital is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter; and
- (b) treat that applicant as possessing such income and capital at the altered rate by reference to the date selected by the relevant authority to apply in its area, for the purposes of establishing the period referred to in sub-paragraph (13).

(15) For the purposes of sub-paragraph (9), a person is not to be regarded as depriving himself of income where—

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004(138).

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

Income paid to third parties: pensioners

46.—(1) Any payment of income, other than a payment specified in sub-paragraph (2) or (3), to a third party in respect of an applicant who is a pensioner is to be treated as possessed by the applicant.

(2) Sub-paragraph (1) does not apply in respect of a payment of income made under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(139);
- (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (c) the person referred to in paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.

(3) Sub-paragraph (1) does not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the applicant's participation in a service user group.

CHAPTER 5

Income: persons who are not pensioners

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

47.—(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as an employed earner his average weekly earnings must be estimated by reference to his earnings from that employment—

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

(2) Where the applicant has been in his employment for less than the period specified in sub-paragraph (1)(a)(i) or (ii)—

- (a) if he has received any earnings for the period that he has been in that employment and those earnings are likely to represent his average weekly earnings from that employment his average weekly earnings must be estimated by reference to those earnings;
- (b) in any other case, the authority must estimate the applicant's average weekly earnings(140).

(3) Where the amount of an applicant's earnings changes the authority must estimate his average weekly earnings by reference to his likely earnings from the employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed 52 weeks.

(4) For the purposes of this paragraph the applicant's earnings are to be calculated in accordance with paragraphs 51 and 52 (earnings of employed earners: persons who are not pensioners).

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

48.—(1) Where the income of an applicant who is not a pensioner consists of earnings from employment as a self-employed earner his average weekly earnings must be estimated by

reference to his earnings from that employment over such period as is appropriate in order that his average weekly earnings may be estimated accurately but the length of the period must not in any case exceed a year.

(2) For the purposes of this paragraph the applicant's earnings must be calculated in accordance with paragraphs 53, 61 and 62 (earnings, and net profit, of self-employed earners). unless subparagraph (3) applies.

(3) Where, in any assessment period, an applicant or their partner is in gainful self-employment and the income calculated in accordance with paragraphs 48 (1) and (2) when divided by the number of hours worked per week results in an hourly rate which is below the applicable National Minimum Wage it is assumed that person will have an earned income equal to the National Minimum wage multiplied by the number of hours worked.

(4) subparagraph (3) does not apply-

(a) within 12 months of the start date of the award of council tax support or;

(b) within 12 months of the date the person's income is first calculated as below the applicable National Minimum Wage within the claim period.

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

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

(2) The period over which any benefit under the benefit Acts is to be taken into account is to be the period in respect of which that benefit is payable.

(3) For the purposes of this paragraph income other than earnings is to be calculated in accordance with paragraph 54 (calculation of income other than earnings: persons who are not pensioners).

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

50.—(1) For the purposes of paragraphs 47 (average weekly earnings of employed earners), 49 (average weekly income other than earnings) and 59 (calculation of average weekly income from tax credits), where the period in respect of which a payment is made—

(a) does not exceed a week, the weekly amount is to be the amount of that payment;

(b) exceeds a week, the weekly amount is to be determined—

(i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;

(ii) in any other case, by dividing the amount of the payment by the number equal to the number of days in the period to which it relates and multiplying the product by 7.

(2) For the purposes of paragraph 48 (average weekly earnings of self-employed earners) the weekly amount of earnings of an applicant is to be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the product by 7.

Earnings of employed earners: persons who are not pensioners

51.—(1) Subject to sub-paragraph (2), "earnings", in the case of employment as an employed earner of a person who is not a pensioner, means any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
 - (b) any payment in lieu of remuneration except any periodic sum paid to an applicant on account of the termination of his employment by reason of redundancy;
 - (c) any payment in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
 - (d) any holiday pay except any payable more than 4 weeks after termination or interruption of the employment;
 - (e) any payment by way of a retainer;
 - (f) any payment made by the applicant's employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the applicant's employer in respect of—
 - (i) travelling expenses incurred by the applicant between his home and place of employment;
 - (ii) expenses incurred by the applicant under arrangements made for the care of a member of his family owing to the applicant's absence from home;
 - (g) any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
 - (h) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);
 - (i) any such sum as is referred to in section 112 of the SSCBA (certain sums to be earnings for social security purposes);
 - (j) any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
 - (k) any remuneration paid by or on behalf of an employer to the applicant who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because he is ill;
 - (l) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
- (2) Earnings does not include—
- (a) subject to sub-paragraph (3), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any payment in respect of expenses arising out of the applicant's participation in a service user group.
- (3) Sub-paragraph (2)(a) does not apply in respect of any non-cash voucher referred to in sub-paragraph (1)(l).

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

52.—(1) For the purposes of paragraph 47 (average weekly earnings of employed earners: persons who are not pensioners), the earnings of an applicant who is not a pensioner derived or likely to be derived from employment as an employed earner to be taken into account must, subject to sub-paragraph (2), be his net earnings.

(2) There is to be disregarded from an applicant's net earnings, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings:

persons who are not pensioners).

(3) For the purposes of sub-paragraph (1) net earnings must, except where sub-paragraph (6) applies, be calculated by taking into account the gross earnings of the applicant from that employment over the assessment period, less—

- (a) any amount deducted from those earnings by way of— (i) income tax;
- (ii) primary Class 1 contributions under the SSCBA;
- (b) one-half of any sum paid by the applicant by way of a contribution towards an occupational pension scheme;
- (c) one-half of the amount calculated in accordance with sub-paragraph (5) in respect of any qualifying contribution payable by the applicant; and
- (d) where those earnings include a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, any amount deducted from those earnings by way of any contributions which are payable under any enactment having effect in Northern Ireland and which correspond to primary Class 1 contributions under the SSCBA.

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

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

- (a) where the qualifying contribution is payable monthly, by multiplying the amount of the qualifying contribution by 12 and dividing the product by 52;
- (b) in any other case, by dividing the amount of the qualifying contribution by the number equal to the number of days in the period to which the qualifying contribution relates.

(6) Where the earnings of an applicant are estimated under paragraph 47(2)(b) (average weekly earnings of employed earners: classes D to G), his net earnings is to be calculated by taking into account those earnings over the assessment period, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007(141) (personal allowances) as is appropriate to his circumstances but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and
- (c) one-half of any sum which would be payable by the applicant by way of a contribution towards an occupational or personal pension scheme, if the earnings so estimated were actual earnings.

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

53.—(1) Subject to sub-paragraph (2), “earnings”, in the case of employment as a self-employed earner of a person who is not a pensioner, means the gross income of the employment.

(2) “Earnings” does not include any payment to which paragraph 31 or 32 of Schedule 8 refers (payments in respect of a person accommodated with the applicant under arrangements made by a

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local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor does it include any sports award.

(3) This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.

(4) Where the applicant's earnings consist of any items to which sub-paragraph (3) applies, those earnings must be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by—

- (a) the amount of support under this scheme to which the applicant would have been entitled had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) as appropriate in the applicant's case.

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

54.—(1) For the purposes of paragraph 49 (average weekly income other than earnings: persons who are not pensioners), the income of an applicant who is not a pensioner which does not consist of earnings to be taken into account must, subject to sub-paragraphs (2) to (8), be his gross income and any capital treated as income under paragraph 55 (capital treated as income: persons who are not pensioners).

(2) There is to be disregarded from the calculation of an applicant's gross income under sub-paragraph (1), any sum, where applicable, specified in Schedule 8.

(3) Where the payment of any benefit under the benefit Acts is subject to any deduction by way of recovery the amount to be taken into account under sub-paragraph (1) must be the gross amount payable.

(4) Where the applicant or, where he is a member of a couple, his partner is receiving a contributory employment and support allowance and that benefit has been reduced under regulation 63 of the Employment and Support Allowance Regulations 2008(142), the amount of that benefit to be taken into account is the amount as if it had not been reduced.

(5) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under sub-paragraph (1) is to be the amount of working tax credit or child tax credit awarded less the amount of that deduction.

(6) Sub-paragraphs (7) and (8) apply where—

- (a) a relevant payment has been made to a person in an academic year; and
- (b) that person abandons, or is dismissed from, his course of study before the payment to him of the final instalment of the relevant payment.

(7) Where a relevant payment is made quarterly, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula—

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

where—

- (a) A = the total amount of the relevant payment which that person would have received had he remained a student until the last day of the academic term in which he abandoned, or was dismissed from, his course, less any deduction under paragraph 81(5) (costs of travel, books and equipment);
- (b) B = the number of support weeks from the support week immediately following that which includes the first day of that academic year to the support week which includes the day on which the person abandoned, or was dismissed from, his course;
- (c) C = the weekly amount of the relevant payment, before the application of the £10 disregard, which would have been taken into account as income under paragraph 81(2)

(treatment of student loans) had the person not abandoned or been dismissed from, his course and, in the case of a person who was not entitled to support under this scheme immediately before he abandoned or was dismissed from his course, had that person, at that time, been entitled to housing benefit .

- (d) D = the number of support weeks in the assessment period.

(8) Where a relevant payment is made by two or more instalments in a quarter, the amount of a relevant payment to be taken into account for the assessment period for the purposes of sub-paragraph (1) in respect of a person to whom sub-paragraph (7) applies, is to be calculated by applying the formula in sub-paragraph (8) but as if—

A = the total amount of relevant payments which that person received, or would have received, from the first day of the academic year to the day the person abandoned the course, or was dismissed from it, less any deduction under paragraph 81(5).

(9) In this paragraph—

“academic year” and “student loan” have the same meanings as in Part 11 (students);

“assessment period” means—

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

whichever of those dates is earlier;

“quarter” in relation to an assessment period means a period in that year beginning on—

- (c) 1st January and ending on 31st March;
- (d) 1st April and ending on 30th June;
- (e) 1st July and ending on 31st August; or
- (f) 1st September and ending on 31st December;

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

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

- (a) any payment to which paragraph 41(2) or 51(2) (payments not earnings) applies; or
- (b) in the case of an applicant who is receiving support under section 95 or 98 of the Immigration and Asylum Act 1999 including support provided by virtue of regulations made under Schedule 9 to that Act, the amount of such support provided in respect of essential living needs of the applicant and his dependants (if any) as is specified in regulations made under paragraph 3 of Schedule 8 to the Immigration and Asylum Act 1999.

Capital treated as income: persons who are not pensioners

55.—(1) Any capital payable by instalments which are outstanding at the date on which the application is made or treated as made, or, at the date of any subsequent revision or supersession, must, if the aggregate of the instalments outstanding and the amount of the applicant’s capital

otherwise calculated in accordance with Chapter 7 of this Part exceeds £16,000, be treated as income.

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income is to be treated as income. (4)

Any Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 is to be treated as income.

(5) Where an agreement or court order provides that payments must be made to the applicant in consequence of any personal injury to the applicant and that such payments are to be made, wholly or partly, by way of periodic payments, any such periodic payments received by the applicant (but not a payment which is treated as capital by virtue of this Part), is to be treated as income.

Notional income: persons who are not pensioners

56.—(1) An applicant who is not a pensioner is to be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to support under a council tax support scheme or increasing the amount of the support.

(2) Except in the case of— (a)

a discretionary trust;

(b) a trust derived from a payment made in consequence of a personal injury;

(c) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund where the applicant has not attained the qualifying age for state pension credit;

(d) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a);

(e) any sum to which paragraph 51(a) of Schedule 10 refers;

(f) rehabilitation allowance made under section 2 of the Employment and Training Act 1973;

(g) child tax credit;

(h) working tax credit, or

(i) any sum to which sub-paragraph (11) applies,

any income which would become available to the applicant upon application being made, but which has not been acquired by him, is to be treated as possessed by the applicant but only from

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the date on which it could be expected to be acquired were an application made.

(3) Any payment of income, other than a payment of income specified in sub-paragraph (4), made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of that family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(4) Sub-paragraph (3) does not apply in respect of a payment of income made—

- (a) under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006);
- (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994(143) (concessionary coal);
- (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996(144);
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (d) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (e) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (f) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (g) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980(145);
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

(5) Where an applicant is in receipt of any benefit under the benefit Acts and the rate of that benefit is altered with effect from a date on or after 1st April in any year but not more than 14 days thereafter, the authority must treat the applicant as possessing such benefit at the altered rate from either 1st April or the first Monday in April in that year, whichever date the authority selects, to the date on which the altered rate is to take effect.

(6) Subject to sub-paragraph (7), where—

- (a) an applicant performs a service for another person; and
- (b) that person makes no payment of earnings or pays less than that paid for a comparable employment in the area,

the authority must treat the applicant as possessing such earnings (if any) as is reasonable for that employment unless the applicant satisfies the authority that the means of that person are insufficient for him to pay or to pay more for the service.

(7) Sub-paragraph (6) does not apply—

- (a) to an applicant who is engaged by a charitable or voluntary organisation or who is a volunteer if the authority is satisfied in any of those cases that it is reasonable for him to provide those services free of charge; or
- (b) in a case where the service is performed in connection with—
 - (i) the applicant's participation in an employment or training programme in accordance with regulation 19(1)(q) of the Jobseeker's Allowance Regulations 1996, other than where the service is performed in connection with the applicant's participation in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations; or
 - (ii) the applicant's or the applicant's partner's participation in an employment or training programme as defined in regulation 19(3) of those Regulations for which a training allowance is not payable or, where such an allowance is payable, it is payable for the sole purpose of reimbursement of travelling or meal expenses to the person participating in that programme; or
- (c) to an applicant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

(8) In sub-paragraph (7)(c) "work placement" means practical work experience which is not undertaken in expectation of payment.

(9) Where an applicant is treated as possessing any income under any of sub-paragraphs (1) to (8), the foregoing provisions of this Part apply for the purposes of calculating the amount of that income as if a payment had actually been made and as if it were actual income which he does possess.

(10) Where an applicant is treated as possessing any earnings under sub-paragraph (6) the foregoing provisions of this Part apply for the purposes of calculating the amount of those earnings as if a payment had actually been made and as if they were actual earnings which he does possess except that paragraph 42(2) or 52(3) (calculation of net earnings of employed earners: pensioners and persons who are not pensioners, respectively) do not apply and his net earnings are to be calculated by taking into account those earnings which he is treated as possessing, less—

- (a) an amount in respect of income tax equivalent to an amount calculated by applying to those earnings the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007(146) (personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal relief deductible under this sub-paragraph is to be calculated on a pro rata basis;
- (b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the SSCBA in respect of those earnings if such contributions were payable; and

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

(11) Sub-paragraphs (1), (2), (3) and (6) do not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the applicant's participation in a service user group.

CHAPTER 6

Income: further provisions applying to pensioners and persons who are not pensioners

Calculation of income on a weekly basis

57.—(1) Subject to paragraph 60 (disregard of changes in tax, etc.), the income of an applicant is to be calculated on a weekly basis—

- (a) by estimating the amount which is likely to be his average weekly income in accordance with this Part;
- (b) by adding to that amount the weekly income calculated—
 - (i) if the applicant is a pensioner, under paragraph 71 (tariff income: pensioners);
 - (ii) if the applicant is a person who is not a pensioner, under paragraph 72 (tariff income: persons who are not pensioners); and

- (c) deducting from the sum of paragraphs (a) and (b) any relevant child care charges to which paragraph 58 (treatment of child care charges) applies from any earnings which form part of the average weekly income or, in a case where the conditions in sub-paragraph (2) are met, from those earnings plus whichever credit specified in paragraph (b) of that sub-paragraph is appropriate, up to a maximum deduction in respect of the applicant's family of whichever of the sums specified in sub-paragraph (3) applies in his case.

(2) The conditions of this paragraph are that—

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

(3) The maximum deduction to which sub-paragraph (1)(c) above refers is to be—

- (a) where the applicant's family includes only one child in respect of whom relevant child care charges are paid, £175.00 per week;
- (b) where the applicant's family includes more than one child in respect of whom relevant child care charges are paid, £300 per week.

Treatment of child care charges

58.—(1) This paragraph applies where an applicant (within the meaning in this paragraph) is incurring relevant child care charges and—

- (a) is a lone parent and is engaged in remunerative work;
- (b) is a member of a couple both of whom are engaged in remunerative work; or
- (c) is a member of a couple where one member is engaged in remunerative work and the other—
 - (i) is incapacitated;

- (ii) is an in-patient in hospital; or
- (iii) is in prison (whether serving a custodial sentence or remanded in custody awaiting trial or sentence).

(2) For the purposes of sub-paragraph (1) and subject to sub-paragraph (4), a person to whom sub-paragraph (3) applies must be treated as engaged in remunerative work for a period not exceeding 28 weeks during which he—

- (a) is paid statutory sick pay;
- (b) is paid short-term incapacity benefit at the lower rate under sections 30A to 30E of the SSCBA;
- (c) is paid an employment and support allowance;
- (d) is paid income support on the grounds of incapacity for work under regulation 4ZA of, and paragraph 7 or 14 of Schedule 1B to, the Income Support (General) Regulations 1987(147); or
- (e) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(148).

(3) This sub-paragraph applies to a person who was engaged in remunerative work immediately before—

- (a) the first day of the period in respect of which he was first paid statutory sick pay, short-term incapacity benefit, an employment and support allowance or income support on the grounds of incapacity for work; or
- (b) the first day of the period in respect of which earnings are credited, as

the case may be.

(4) In a case to which sub-paragraph (2)(d) or (e) applies, the period of 28 weeks begins on the day on which the person is first paid income support or on the first day of the period in respect of which earnings are credited, as the case may be.

(5) Relevant child care charges are those charges for care to which sub-paragraphs (6) and (7) apply, and are to be calculated on a weekly basis in accordance with sub-paragraph (10).

(6) The charges are paid by the applicant for care which is provided—

- (a) in the case of any child of the applicant's family who is not disabled, in respect of the period beginning on that child's date of birth and ending on the day preceding the first Monday in September following that child's fifteenth birthday; or
- (b) in the case of any child of the applicant's family who is disabled, in respect of the period beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday.

(7) The charges are paid for care which is provided by one or more of the care providers listed in sub-paragraph (8) and are not paid—

- (a) in respect of the child's compulsory education;
- (b) by an applicant to a partner or by a partner to an applicant in respect of any child for whom either or any of them is responsible in accordance with paragraph 7 (circumstances in which a person is treated as responsible or not responsible for another); or
- (c) in respect of care provided by a relative of the child wholly or mainly in the child's home.

(8) The care to which sub-paragraph (7) refers may be provided—

- (a) out of school hours, by a school on school premises or by a local authority—
 - (i) for children who are not disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following their fifteenth birthday; or
 - (ii) for children who are disabled in respect of the period beginning on their eighth birthday and ending on the day preceding the first Monday in September following

their sixteenth birthday; or

- (b) by a child care provider approved in accordance with the Tax Credit (New Category of Child Care Provider) Regulations 1999(**149**); or
- (c) by persons registered under Part 2 of the Children and Families (Wales) Measure 2010 (**150**); 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(**151**); or

(e) by—

- (i) persons registered under section 59(1) of the Public Services Reform (Scotland) Act 2010(**152**); or
- (ii) local authorities registered under section 83(1) of that Act, where the care provided is child minding or day care of children within the meaning of that Act; or
- (f) by a person prescribed in regulations made pursuant to section 12(4) of the Tax Credits Act 2002; or
- (g) by a person who is registered under Chapter 2 or 3 of Part 3 of the Childcare Act 2006(**153**); or
- (h) by any of the schools mentioned in section 34(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 2 of Part 3 of that Act does not apply by virtue of section 34(2) of that Act; or
- (i) by any of the schools mentioned in section 53(2) of the Childcare Act 2006 in circumstances where the requirement to register under Chapter 3 of Part 3 of that Act does not apply by virtue of section 53(2) of that Act; or
- (j) by any of the establishments mentioned in section 18(5) of the Childcare Act 2006 in circumstances where the care is not included in the meaning of “childcare” for the purposes of Part 1 and Part 3 of that Act by virtue of that subsection; or
- (k) by a foster parent or kinship carer under the Fostering Services Regulations 2011(**154**), the Fostering Services (Wales) Regulations 2003(**155**) or the Looked After Children (Scotland) Regulations 2009(**156**) in relation to a child other than one whom the foster parent is fostering or kinship carer is looking after; or
- (l) by a provider of personal care within the meaning of paragraph 1 of Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010(**157**) and being a regulated activity prescribed by those Regulations; or
- (m) by a person who is not a relative of the child wholly or mainly in the child’s home.

(9) In sub-paragraphs (6) and (8)(a), “the first Monday in September” means the Monday which first occurs in the month of September in any year.

(10) Relevant child care charges must be estimated over such period, not exceeding a year, as is appropriate in order that the average weekly charge may be estimated accurately having regard to information as to the amount of that charge provided by the child minder or person providing the care.

(11) For the purposes of sub-paragraph (1)(c) the other member of a couple is incapacitated where—

- (a) the applicant is a pensioner and the other member of the couple is aged not less than 80; (b) the applicant is a pensioner and the other member of the couple is aged less than 80, and—

- (i) the additional condition specified in paragraph 10 of Schedule 3 (additional condition for the disability premium) to this scheme is treated as applying in his case; and
 - (ii) he satisfies that conditions or would satisfy it but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
- (c) the applicant is not a pensioner, the applicant's applicable amount includes a disability premium on account of the other member's incapacity or the support component or the work-related activity component on account of his having limited capability for work;
 - (d) the applicant is not a pensioner, the applicant's applicable amount would include a disability premium on account of the other member's incapacity but for that other member being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;
 - (e) the applicant's applicable amount would include the support component or the work-related activity component on account of the other member having limited capability for work but for that other member being treated as not having limited capability for work by virtue of a determination made in accordance with the Employment and Support Allowance Regulations 2008;
 - (f) he is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;
 - (g) he is, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
 - (h) there is payable in respect of him one or more of the following pensions or allowances—
 - (i) long-term incapacity benefit or short-term incapacity benefit at the higher rate under Schedule 4 to the SSCBA;
 - (ii) attendance allowance under section 64 of the SSCBA;
 - (iii) severe disablement allowance under section 68 of the SSCBA;
 - (iv) disability living allowance under section 71 of the SSCBA;
 - (v) personal independence payment;
 - (vi) an AFIP;
 - (vii) increase of disablement pension under section 104 of the SSCBA;
 - (viii) a pension increase paid as part of a war disablement pension or under an industrial injuries scheme which is analogous to an allowance or increase of disablement pension under sub-paragraph (ii), (iv), (v) or (vii) above;
 - (ix) main phase employment and support allowance;
 - (i) a pension or allowance to which sub-paragraph (vii) or (viii) of paragraph (h) above refers was payable on account of his incapacity but has ceased to be payable in consequence of his becoming a patient, which in this paragraph means a person (other than a person who is serving a sentence of imprisonment or detention in a youth custody institution) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;
 - (j) an attendance allowance under section 64 of the SSCBA or disability living allowance would be payable to that person but for—

- (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
 - (k) the daily living component of personal independence payment would be payable to that person but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
 - (l) an AFIP would be payable to that person but for any suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
 - (m) paragraph (h), (i), (j) or (k) would apply to him if the legislative provisions referred to in those paragraphs were provisions under any corresponding enactment having effect in Northern Ireland; or
 - (n) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006(158) or under section 46 of the National Health Service (Scotland) Act 1978(159) 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(160).
- (12) For the purposes of sub-paragraph (11), once sub-paragraph (11)(f) applies to the person, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph is, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter to apply to him for so long as he remains incapable, or is treated as remaining incapable, of work.
- (13) For the purposes of sub-paragraph (11), once sub-paragraph (11)(g) applies to the person, if he then ceases, for a period of 84 days or less, to have, or to be treated as having, limited capability for work, that paragraph is, on his again having, or being treated as having, limited capability for work at the end of that period, immediately thereafter to apply to him for so long as he has, or is treated as having, limited capability for work.
- (14) For the purposes of sub-paragraphs (6) and (8)(a), a person is disabled if he is a person—
- (a) to whom an attendance allowance or the care component of disability allowance is payable or would be payable but for—
 - (i) a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA; or
 - (ii) an abatement as a consequence of hospitalisation;
 - (b) to whom the daily living component of personal independence payment is payable or would be payable but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012 (hospital in-patients);
 - (c) who is registered as blind in a register compiled under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered as blind in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
 - (d) who ceased to be registered as blind in such a register within the period beginning 28 weeks before the first Monday in September following that person's fifteenth birthday and ending on the day preceding that person's sixteenth birthday.
- (15) For the purposes of sub-paragraph (1) a person on maternity leave, paternity leave or adoption leave is to be treated as if he is engaged in remunerative work for the period specified in sub-paragraph (16) ("the relevant period") provided that—
- (a) in the week before the period of maternity leave, paternity leave or adoption leave began he was in remunerative work;

- (b) the applicant is incurring relevant child care charges within the meaning of sub-paragraph (5); and
- (c) he is entitled to either statutory maternity pay under section 164 of the SSCBA(161), ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of that Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of that Act, statutory adoption pay by of section 171ZL of that Act, maternity allowance under section 35 of that Act or qualifying support.

(16) For the purposes of sub-paragraph (15) the relevant period begins on the day on which the person’s maternity, paternity leave or adoption leave commences and ends on—

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

whichever occurs first.

(17) In sub-paragraphs (15) and (16)—

- (a) “qualifying support” means income support to which that person is entitled by virtue of paragraph 14B of Schedule 1B to the Income Support (General) Regulations 1987(162); and
- (b) “child care element” of working tax credit means the element of working tax credit prescribed under section 12 of the Tax Credits Act 2002 (child care element).

(18) In this paragraph “applicant” does not include an applicant—

- (a) who has, or
- (b) who (jointly with his partner) has, an

award of universal credit.

Calculation of average weekly income from tax credits

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

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

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

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

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

Disregard of changes in tax, contributions etc.

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

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

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

Calculation of net profit of self-employed earners

61.—(1) For the purposes of paragraphs 48 (average weekly earnings of self-employed earners: persons who are not pensioners) and 57 (calculation of income on a weekly basis) the earnings of an applicant to be taken into account must be—

- (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- (b) in the case of a self-employed earner who is a pensioner whose employment is carried on in partnership, his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions of self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium;
- (c) in the case of a self-employed earner who is not a pensioner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(163), his share of the net profit derived from that employment, less—
 - (i) an amount in respect of income tax and of social security contributions payable under the SSCBA calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
 - (ii) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(2) There must be disregarded from the net profit of an applicant who is not a pensioner, any sum, where applicable, specified in paragraphs 1 to 16 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners).

(3) For the purposes of sub-paragraph (1)(a) the net profit of the employment must, except where sub-paragraph (9) applies, be calculated by taking into account the earnings of the employment over the assessment period less—

- (a) subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- (b) an amount in respect of— (i)
 - income tax; and
 - (ii) social security contributions payable under the SSCBA,

calculated in accordance with paragraph 62 (deduction of tax and contributions for self-

employed earners); and

- (c) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(4) For the purposes of sub-paragraph (1)(b) the net profit of the employment is to be calculated by taking into account the earnings of the employment over the assessment period less, subject to sub-paragraphs (5) to (8), any expenses wholly and exclusively incurred in that period for the purposes of the employment.

(5) Subject to sub-paragraph (6), no deduction is to be made under sub-paragraph (3)(a) or (4), in respect of—

- (a) any capital expenditure;
- (b) the depreciation of any capital asset;
- (c) any sum employed or intended to be employed in the setting up or expansion of the employment;
- (d) any loss incurred before the beginning of the assessment period;
- (e) the repayment of capital on any loan taken out for the purposes of the employment; (f) any expenses incurred in providing business entertainment; and
- (g) in the case of an applicant who is not a pensioner, any debts, except bad debts proved to be such, but this paragraph does not apply to any expenses incurred in the recovery of a debt.

(6) A deduction is to be made under sub-paragraph (3)(a) or (4) in respect of the repayment of capital on any loan used for—

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

(7) The authority must refuse to make a deduction in respect of any expenses under sub-paragraph (3)(a) or (4) where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

(8) For the avoidance of doubt—

- (a) a deduction must not be made under sub-paragraph (3)(a) or (4) in respect of any sum unless it has been expended for the purposes of the business;
- (b) a deduction must be made thereunder in respect of—
 - (i) the excess of any value added tax paid over value added tax received in the assessment period;
 - (ii) any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
 - (iii) any payment of interest on a loan taken out for the purposes of the employment.

(9) Where an applicant is engaged in employment as a child minder the net profit of the employment is to be one-third of the earnings of that employment, less—

- (a) an amount in respect of— (i) income tax; and (ii) social security contributions payable under the SSCBA, calculated in accordance with paragraph 62 (deduction of tax and contributions for self-employed earners); and
- (b) one-half of the amount calculated in accordance with sub-paragraph (11) in respect of any qualifying premium.

(10) For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or

employed earner any loss incurred in any one of his employments must not be offset against his earnings in any other of his employments.

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

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 52;
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

(12) In this paragraph, “qualifying premium” means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of application.

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

62.—(1) The amount to be deducted in respect of income tax under paragraph 61(1)(b)(i), (3)(b)(i) or (9)(a)(i) (calculation of net profit of self-employed earners) must be calculated—

- (a) on the basis of the amount of chargeable income, and
- (b) as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under sections 35 to 37 of the Income Tax Act 2007(**164**) (personal allowances) as is appropriate to his circumstances.

(2) But, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph must be calculated on a pro rata basis.

(3) The amount to be deducted in respect of social security contributions under paragraph 60(1)(b)(i), (3)(b)(ii) or (9)(a)(ii) is the total of—

- (a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the SSCBA at the rate applicable to the assessment period except where the applicant’s chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year must be reduced pro rata; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of the SSCBA (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits must be reduced pro rata.

(4) In this paragraph “chargeable income” means—

- (a) except where paragraph (b) applies, the earnings derived from the employment less any expenses deducted under sub-paragraph (3)(a) or, as the case may be, (5) of paragraph 61;
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.

CHAPTER 7

Capital

Calculation of capital

63.—(1) The capital of an applicant(165) to be taken into account must be, subject to sub-paragraph (2), the whole of his capital calculated in accordance with this Part and (in the case of persons who are not pensioners) any income treated as capital under paragraph 64 (income treated as capital: persons who are not pensioners).

(2) There must be disregarded from the calculation of an applicant's capital under sub-paragraph (1), any capital, where applicable, specified in—

(a) Schedule 9, in relation to pensioners;

(b) Schedule 10, in relation to persons who are not pensioners.

(3) In the case of an applicant who is a pensioner, his capital is to be treated as including any payment made to him by way of arrears of—

(a) child tax credit;

(b) working tax credit; (c)

state pension credit,

if the payment was made in respect of a period for the whole or part of which support under this scheme was allowed before those arrears were paid.

(4) The capital of a child or young person who is a member of the family of an applicant who is not a pensioner must not be treated as capital of the applicant.

Income treated as capital: persons who are not pensioners

64.—(1) This paragraph applies in relation to persons who are not pensioners.

(2) Any bounty derived from employment to which paragraph 9 of Schedule 7 (sums disregarded in the calculation of earnings: persons who are not pensioners) applies and paid at intervals of at least one year is to be treated as capital.

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

(4) Any holiday pay which is not earnings under paragraph 41(1)(d) or 51(1)(d) (earnings of employed earners) is to be treated as capital.

(5) Except any income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17, 30 to 33, 50 or 51 of Schedule 10 (capital disregards: persons who are not pensioners), any income derived from capital is to be treated as capital but only from the date it is normally due to be credited to the applicant's account.

(6) In the case of employment as an employed earner, any advance of earnings or any loan made by the applicant's employer is to be treated as capital.

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

(8) There is to be treated as capital the gross receipts of any commercial activity carried on by a person in respect of which assistance is received under the self-employment route, but only in so far as those receipts were payable into a special account during the period in which that person was receiving such assistance.

(9) Any arrears of subsistence allowance which are paid to an applicant as a lump sum must be treated as capital.

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(10) Any arrears of working tax credit or child tax credit must be treated as capital.

Calculation of capital in the United Kingdom

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

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

Calculation of capital outside the United Kingdom

66. Capital which an applicant possesses in a country outside the United Kingdom must be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent and the amount of any encumbrances secured on it.

Notional capital

67.—(1) An applicant is to be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to support or increasing the amount of that support except to the extent that that capital is reduced in accordance with paragraph 68 (diminishing notional capital rule).

(2) A person who is a pensioner who disposes of capital for the purpose of—

- (a) reducing or paying a debt owed by the applicant; or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the applicant's case,

is to be regarded as not depriving himself of it.

(3) Sub-paragraphs (4) to (6) apply in relation to applicants who are not pensioners.

(4) Except in the case of—

- (a) a discretionary trust; or
- (b) a trust derived from a payment made in consequence of a personal injury; or
- (c) any loan which would be obtained only if secured against capital disregarded under Schedule 9; or
- (d) a personal pension scheme, occupational pension scheme or a payment made by the Board of the Pension Protection Fund; or
- (e) any sum to which paragraph 50(2)(a) of Schedule 10 (capital disregards: persons who are not pensioners) applies which is administered in the way referred to in paragraph 50(1)(a); or
- (f) any sum to which paragraph 51(a) of Schedule 10 refers; or
- (g) child tax credit; or
- (h) working tax credit,

any capital which would become available to the applicant upon application being made, but

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which has not been acquired by him, is to be treated as possessed by him but only from the date on which it could be expected to be acquired were an application made.

(5) Any payment of capital, other than a payment of capital specified in sub-paragraph (6), made—

- (a) to a third party in respect of a single applicant or a member of the family (but not a member of the third party's family) must, where that payment is a payment of an occupational pension, a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund, be treated as possessed by that single applicant or, as the case may be, by that member;
- (b) to a third party in respect of a single applicant or in respect of a member of the family (but not a member of the third party's family) must, where it is not a payment referred to in paragraph (a), be treated as possessed by that single applicant or by that member to the extent that it is used for the food, ordinary clothing or footwear, household fuel or rent of that single applicant or, as the case may be, of any member of that family or is used for any council tax or water charges for which that applicant or member is liable;
- (c) to a single applicant or a member of the family in respect of a third party (but not in respect of another member of the family) must be treated as possessed by that single applicant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.

(6) Sub-paragraph (5) does not apply in respect of a payment of capital made—

- (a) under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund;
- (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations;
 - (iii) in the Intense Activity Period specified in regulation 75(1)(a)(iv) of those Regulations;
 - (iv) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations; or
 - (v) in the Flexible New Deal specified in regulation 75(1)(a)(v) of those Regulations;
- (c) in respect of a person's participation in the Work for Your Benefit Pilot Scheme;
- (d) in respect of a person's participation in the Mandatory Work Activity Scheme;
- (e) in respect of an applicant's participation in the Employment, Skills and Enterprise Scheme;
- (f) under an occupational pension scheme, in respect of a pension or other periodical payment made under a personal pension scheme or a payment made by the Board of the Pension Protection Fund where—
 - (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980;
 - (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
 - (iii) the person referred to in sub-paragraph (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.

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

- (a) the value of his holding in that company must, notwithstanding paragraph 63 (calculation of capital) be disregarded; and
- (b) he must, subject to sub-paragraph (8), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(8) For so long as the applicant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under sub-paragraph (7) is to be disregarded.

(9) Where an applicant is treated as possessing capital under any of sub-paragraphs (1), (4) or (5) the foregoing provisions of this Chapter apply for the purposes of calculating its amount as if it were actual capital which he does possess.

Diminishing notional capital rule: pensioners

68.—(1) Where an applicant who is a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are satisfied; or
 - (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where— (i) that week is a week subsequent to the relevant week; and (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).

(2) This sub-paragraph applies to a support week where the applicant satisfies the conditions that—

- (a) he is in receipt of support under this scheme; and
- (b) but for paragraph 67(1), he would have received a greater support in council tax under this scheme in that week.

(3) In a case to which sub-paragraph (2) applies, the amount of the support in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) must be equal to the aggregate of—

- (a) an amount equal to the additional amount of the support in council tax to which sub-paragraph (2)(b) refers;
- (b) where the applicant has also claimed state pension credit, the amount of any state pension credit or any additional amount of state pension credit to which he would have been entitled in respect of the support week to which sub-paragraph (2) refers but for the application of regulation 21(1) of the State Pension Credit Regulations 2002 (notional capital);
- (c) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of housing benefit to which he would have been entitled in respect of the whole or part of the support week to which sub-paragraph (2) refers but for the application of regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (notional capital);

- (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the support week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
 - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the support week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is a pensioner and would have been entitled council tax support under this scheme in the relevant week but for paragraph 67(1).
- (5) In such a case the amount of the support in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(b) is equal to the aggregate of—
- (a) the amount of the council tax support to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
 - (b) if the applicant would, but for regulation 21 of the State Pension Credit Regulations 2002, have been entitled to state pension credit in respect of the benefit week, within the meaning of regulation 1(2) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
 - (c) if the applicant would, but for regulation 47(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or
 - (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
 - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
 - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
 - (b) multiplying the result of that calculation by 7.
- (7) The amount determined under sub-paragraph (5) is to be re-determined under that sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—
- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
 - (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week

following the relevant subsequent week in question.

(8) The conditions are that—

(a) a further application is made 26 or more weeks after—

- (i) the date on which the applicant made an application in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
- (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (11), the date on which he last made an application which resulted in the weekly amount being re-determined, or
- (iii) the date on which he last ceased to be entitled to support under this scheme, whichever last occurred; and

(b) the applicant would have been entitled to support under this scheme but for paragraph 67(1).

(9) The amount as re-determined pursuant to sub-paragraph (7) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.

(10) For the purposes of this paragraph—

“part-week”—

- (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a week for which council tax support under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
- (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
 - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker’s allowance is payable; and
 - (ii) any other period of less than a week for which it is payable;

“relevant week” means the support week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

- (a) was first taken into account for the purpose of determining his entitlement to support; or
- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, support;

and where more than one support week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such support week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the support week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

Diminishing notional capital rule: persons who are not pensioners

69.—(1) Where an applicant who is not a pensioner is treated as possessing capital under paragraph 67(1) (notional capital), the amount which he is treated as possessing—

(a) in the case of a week that is subsequent to—

- (i) the relevant week in respect of which the conditions set out in sub-paragraph (2) are

satisfied; or

- (ii) a week which follows that relevant week and which satisfies those conditions, is to be reduced by an amount determined under sub-paragraph (3);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week; and
 - (ii) that relevant week is a week in which the condition in sub-paragraph (4) is satisfied, is to be reduced by the amount determined under sub-paragraph (5).
- (2) This sub-paragraph applies to a support week (or, in the case of persons who are not pensioners, part-week) where the applicant satisfies the conditions that—
 - (a) he is in receipt of council tax support under this scheme; and
 - (b) but for paragraph 67(1), he would have received a greater support in council tax under this scheme in that week.
- (3) In a case to which sub-paragraph (2) applies, the amount of support in the amount of capital he is treated as possessing for the purposes of sub-paragraph (1)(a) is equal to the aggregate of—
 - (a) an amount equal to the additional amount of the council tax support to which sub-paragraph (2)(b) refers;
 - (b) where the applicant has also claimed housing benefit, the amount of any housing benefit or any additional amount of that benefit to which he would have been entitled in respect of the whole or part of the support week to which sub-paragraph (2) refers but for the application of regulation 49(1) of the Housing Benefit Regulations 2006 (notional capital);
 - (c) where the applicant has also claimed income support, the amount of income support to which he would have been entitled in respect of the whole or part of the support week to which sub-paragraph (2) refers but for the application of regulation 51(1) of the Income Support (General) Regulations 1987 (notional capital);
 - (d) where the applicant has also claimed a jobseeker's allowance, the amount of an income-based jobseeker's allowance to which he would have been entitled in respect of the whole or part of the support week to which sub-paragraph (2) refers but for the application of regulation 113 of the Jobseeker's Allowance Regulations 1996 (notional capital); and
 - (e) where the applicant has also claimed an employment and support allowance, the amount of an income-related employment and support allowance to which he would have been entitled in respect of the whole or part of the support week to which sub-paragraph (2) refers but for the application of regulation 115 of the Employment and Support Allowance Regulations 2008 (notional capital).
- (4) Subject to sub-paragraph (7), for the purposes of sub-paragraph (1)(b) the condition is that the applicant is not a pensioner and would have been entitled to council tax support in the relevant week but for paragraph 67(1).
- (5) In such a case the amount of the reduction in the amount of capital he is treated as possessing must be equal to the aggregate of—
 - (a) the amount of council tax benefit to which the applicant would have been entitled in the relevant week but for paragraph 67(1);
 - (b) if the applicant would, but for regulation 49(1) of the Housing Benefit Regulations 2006, have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week which includes the last day of the relevant week, the amount which is equal to—
 - (i) in a case where no housing benefit is payable, the amount to which he would have been entitled; or

- (ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled;
 - (c) if the applicant would, but for regulation 51(1) of the Income Support (General) Regulations 1987, have been entitled to income support in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled;
 - (d) if the applicant would, but for regulation 113 of the Jobseeker's Allowance Regulations 1996, have been entitled to an income-based jobseeker's allowance in respect of the benefit week, within the meaning of regulation 1(3) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled; and
 - (e) if the applicant would, but for regulation 115 of the Employment and Support Allowance Regulations 2008, have been entitled to an income-related employment and support allowance in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week, the amount to which he would have been entitled.
- (6) But if the amount mentioned in paragraph (a), (b), (c), (d) or (e) of sub-paragraph (5) ("the relevant amount") is in respect of a part-week, the amount that is to be taken into account under that paragraph is to be determined by—
- (a) dividing the relevant amount by the number equal to the number of days in that part-week, and
 - (b) multiplying the result of that calculation by 7.
- (7) The amount determined under sub-paragraph (5) is to be re-determined under the appropriate sub-paragraph if the applicant makes a further application and the conditions in sub-paragraph (8) are satisfied, and in such a case—
- (a) paragraphs (a) to (e) of sub-paragraph (5) apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and
 - (b) subject to sub-paragraph (9), the amount as re-determined has effect from the first week following the relevant subsequent week in question.
- (8) The conditions are that—
- (a) a further application is made 26 or more weeks after—
 - (i) the date on which the applicant made an application for support under this scheme in respect of which he was first treated as possessing the capital in question under paragraph 67(1);
 - (ii) in a case where there has been at least one re-determination in accordance with sub-paragraph (7), the date on which he last made an application under this scheme which resulted in the weekly amount being re-determined, or
 - (iii) the date on which he last ceased to be entitled to support under this scheme, whichever last occurred; and
 - (b) the applicant would have been entitled to support under this scheme but for paragraph 67(1).
- (9) The amount as re-determined pursuant to sub-paragraph (6) must not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount must continue to have effect.
- (10) For the purposes of this paragraph—
- "part-week"—
 - (a) in relation to an amount mentioned in sub-paragraph (5)(a), means a period of less than a

- week for which support under this scheme is allowed;
- (b) in relation to an amount mentioned in sub-paragraph (5)(b), means a period of less than a week for which housing benefit is payable;
 - (c) in relation to an amount mentioned in sub-paragraph (5)(c), (d) or (e), means—
 - (i) a period of less than a week which is the whole period for which income support, an income-related employment and support allowance or, as the case may be, an income-based jobseeker's allowance is payable; and
 - (ii) any other period of less than a week for which it is payable;

“relevant week” means the support week or part-week in which the capital in question of which the applicant has deprived himself within the meaning of paragraph 67(1)—

- (a) was first taken into account for the purpose of determining his entitlement to support;
 - or
- (b) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to support on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, support,

and where more than one support week is identified by reference to paragraphs (a) and (b) of this definition, the later or latest such support week or, as the case may be, the later or latest such part-week is the relevant week;

“relevant subsequent week” means the support week or part-week which includes the day on which the further application or, if more than one further application has been made, the last such application was made.

Capital jointly held

70. Except where an applicant possesses capital which is disregarded under paragraph 67(7) (notional capital), where an applicant and one or more persons are beneficially entitled in possession to any capital asset they must be treated, in the absence of evidence to the contrary, as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Chapter apply for the purposes of calculating the amount of capital which the applicant is treated as possessing as if it were actual capital which the applicant does possess.

Calculation of tariff income from capital: pensioners

71. The capital of an applicant who is a pensioner, calculated in accordance with this Part(166), is to be treated as if it were a weekly income(167) of—

- (a) £1 for each £500 in excess of £10,000 but not exceeding £16,000; and
- (b) £1 for any excess which is not a complete £500.

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

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

PART 11
Students
CHAPTER 1
General

Interpretation

73.—(1) In this Part—

“academic year” means the period of twelve months beginning on 1st January, 1st April, 1st July or 1st September according to whether the course in question begins in the winter, the spring, the summer or the autumn respectively but if students are required to begin attending the course during August or September and to continue attending through the autumn, the academic year of the course is to be considered to begin in the autumn rather than the summer;

“access funds” means—

- (a) grants made under section 68 of the Further and Higher Education Act 1992(168) for the purpose of providing funds on a discretionary basis to be paid to students;
- (b) grants made under sections 73(a) and (c) and 74(1) of the Education (Scotland) Act 1980 (169)
- (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(170); or
- (e) Financial Contingency Funds made available by the Welsh Ministers;

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

“contribution” means—

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

“course of study” means any course of study, whether or not it is a sandwich course and whether or not a grant is made for attending or undertaking it;

“covenant income” means the gross income payable to a full-time student under a Deed of

Covenant by his parent;

“education authority” means a government department, a local authority as defined in section 579 of the Education Act 1996 (interpretation), a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973, an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986, any body which is a research council for the purposes of the Science and Technology Act 1965 or any analogous government department, authority, board or body, of the Channel Islands, Isle of Man or any other country outside Great Britain;

“full-time course of study” means a full-time course of study which—

- (a) is not funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers or a full-time course of study which is not funded in whole or in part by the Scottish Ministers at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Scottish Ministers;
- (b) is funded in whole or in part by the Secretary of State under section 14 of the Education Act 2002, the Chief Executive of Skills Funding or by the Welsh Ministers if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out—
 - (i) in the case of a course funded by the Secretary of State under section 14 of the Education Act 2002 or the Chief Executive of Skills Funding, in the student’s learning agreement signed on behalf of the establishment which is funded by either of those persons for the delivery of that course; or
 - (ii) in the case of a course funded by the Welsh Ministers, in a document signed on behalf of the establishment which is funded by that Council for the delivery of that course; or
- (c) is not higher education and is funded in whole or in part by the Scottish Ministers at a college of further education and involves—
 - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week, according to the number of hours set out in a document signed on behalf of the college;

“full-time student” means a person attending or undertaking a full-time course of study and includes a student on a sandwich course;

“grant” (except in the definition of “access funds”) means any kind of educational grant or award and includes any scholarship, studentship, exhibition, allowance or bursary but does not include a payment from access funds or any payment to which paragraph 16 of Schedule 8 or paragraph 55 of Schedule 10 (allowances and payments for courses of study) applies;

“grant income” means—

- (a) any income by way of a grant;
- (b) any contribution whether or not it is paid;

“higher education” means higher education within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992;

“last day of the course” means—

- (a) in the case of a qualifying course, the date on which the last day of that course falls or the date on which the final examination relating to that course is completed, whichever is the

later;

- (b) in any other case, the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;

“period of study” means—

- (a) in the case of a course of study for one year or less, the period beginning with the start of the course and ending with the last day of the course;
- (b) in the case of a course of study for more than one year, in the first or, as the case may be, any subsequent year of the course, other than the final year of the course, the period beginning with the start of the course or, as the case may be, that year’s start and ending with either—
 - (i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or
 - (ii) in any other case, the day before the start of the normal summer vacation appropriate to his course;
- (c) in the final year of a course of study of more than one year, the period beginning with that year’s start and ending with the last day of the course;

“periods of experience” means periods of work experience which form part of a sandwich course;

“qualifying course” means a qualifying course as defined for the purposes of Parts 2 and 4 of the Jobseeker’s Allowance Regulations 1996;

“sandwich course” has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007 or regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007, as the case may be;

“standard maintenance grant” means—

- (a) except where paragraph (b) or (c) applies, in the case of a student attending or undertaking a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003(171) (“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(172), section 73 of the Education (Scotland) Act 1980 or Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 and includes, in Scotland, a young student’s bursary paid under regulation

4(1)(c) of the Students' Allowances (Scotland) Regulations 2007.

(2) For the purposes of the definition of "full-time student" in sub-paragraph (1), a person must be regarded as attending or, as the case may be, undertaking a full-time course of study or as being on a sandwich course—

(a) subject to sub-paragraph (3), in the case of a person attending or undertaking a part of a modular course which would be a full-time course of study for the purposes of this Part, for the period beginning on the day on which that part of the course starts and ending—

(i) on the last day on which he is registered with the educational establishment as attending or undertaking that part as a full-time course of study; or

(ii) on such earlier date (if any) as he finally abandons the course or is dismissed from it; (b)

in any other case, throughout the period beginning on the date on which he starts attending or undertaking the course and ending on the last day of the course or on such earlier date (if any) as he finally abandons it or is dismissed from it.

(3) For the purposes of paragraph (a) of sub-paragraph (2), the period referred to in that paragraph includes—

(a) where a person has failed examinations or has failed successfully to complete a module relating to a period when he was attending or undertaking a part of the course as a full-time course of study, any period in respect of which he attends or undertakes the course for the purpose of retaking those examinations or that module;

(b) any period of vacation within the period specified in that paragraph or immediately following that period except where the person has registered with the educational establishment to attend or undertake the final module in the course and the vacation immediately follows the last day on which he is required to attend or undertake the course.

(4) In sub-paragraph (2), "modular course" means a course of study which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

Treatment of students

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

Students who are excluded from entitlement to support under this scheme

75.—(1) The students who are excluded from entitlement to support under this scheme are, subject to sub-paragraphs (2) and (7)—

(a) full-time students, and

(b) students who are persons treated as not being in Great Britain(173).

(2) Sub-paragraph (1)(b) does not apply to a student—

(a) who is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance;

(b) who is a lone parent;

(c) whose applicable amount would, but for this paragraph, include the disability premium or severe disability premium;

(d) whose applicable amount would include the disability premium but for his being treated as capable of work by virtue of a determination made in accordance with regulations made under section 171E of the SSCBA;

(e) who is, or is treated as, incapable of work and has been so incapable, or has been so treated as incapable, of work in accordance with the provisions of, and regulations made

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under, Part 12A of the SSCBA (incapacity for work) for a continuous period of not less than 196 days; and for this purpose any two or more separate periods separated by a break of not more than 56 days must be treated as one continuous period;

- (f) who has, or is treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more separate periods separated by a break of not more than 84 days must be treated as one continuous period;
- (g) who has a partner who is also a full-time student, if he or that partner is treated as responsible for a child or young person;
- (h) who is a single applicant with whom a child is placed by a local authority or voluntary organisation within the meaning of the Children Act 1989 or, in Scotland, boarded out within the meaning of the Social Work (Scotland) Act 1968;
- (i) who is—
 - (i) aged under 21 and whose course of study is not a course of higher education,
 - (ii) aged 21 and attained that age during a course of study which is not a course of higher education, or
 - (iii) a qualifying young person or child within the meaning of section 142 of the SSCBA (child and qualifying young person);
- (j) in respect of whom—
 - (i) a supplementary requirement has been determined under paragraph 9 of Part 2 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003;
 - (ii) an allowance, or as the case may be, bursary has been granted which includes a sum under paragraph (1)(d) of regulation 4 of the Students' Allowances (Scotland) Regulations 1999 or, as the case may be, under paragraph (1)(d) of regulation 4 of the Education Authority (Bursaries) (Scotland) Regulations 1995, in respect of expenses incurred;
 - (iii) a payment has been made under or by virtue of regulations made under the Teaching and Higher Education Act 1998;
 - (iv) a grant has been made under regulation 13 of the Education (Student Support) Regulations 2005 or under regulation 13 of the Education (Student Support) Regulations (Northern Ireland) 2000; or
 - (v) a supplementary requirement has been determined under paragraph 9 of Schedule 6 to the Students Awards Regulations (Northern Ireland) 1999 or a payment has been made under Article 50(3) of the Education and Libraries (Northern Ireland) Order 1986,

on account of his disability by reason of deafness.

(3) Sub-paragraph (2)(i)(ii) only applies to an applicant until the end of the course during which the applicant attained the age of 21.

(4) For the purposes of sub-paragraph (2), once sub-paragraph (2)(e) applies to a full-time student, if he then ceases, for a period of 56 days or less, to be incapable, or to be treated as incapable, of work, that sub-paragraph must, on his again becoming so incapable, or so treated as incapable, of work at the end of that period, immediately thereafter apply to him for so long as he remains incapable or is treated as remaining incapable, of work.

(5) In sub-paragraph (2)(i) the reference to a course of higher education is a reference to a course of any description mentioned in Schedule 6 to the Education Reform Act 1988(174).

(6) A full-time student to whom sub-paragraph (2)(i) applies must be treated as satisfying that sub-paragraph from the date on which he made a request for the supplementary requirement, allowance, bursary or payment as the case may be.

(7) Sub-paragraph (1)(b) does not apply to a full-time student for the period specified in sub-paragraph (8) if—

- (a) at any time during an academic year, with the consent of the relevant educational establishment, he ceases to attend or undertake a course because he is—
 - (i) engaged in caring for another person; or
 - (ii) ill;
- (b) he has subsequently ceased to be engaged in caring for that person or, as the case may be, he has subsequently recovered from that illness; and
- (c) he is not eligible for a grant or a student loan in respect of the period specified in sub-paragraph (8).

(8) The period specified for the purposes of sub-paragraph (7) is the period, not exceeding one year, beginning on the day on which he ceased to be engaged in caring for that person or, as the case may be, the day on which he recovered from that illness and ending on the day before—

- (a) the day on which he resumes attending or undertaking the course; or
- (b) the day from which the relevant educational establishment has agreed that he may resume attending or undertaking the course,

whichever first occurs.

CHAPTER 2

Income

Calculation of grant income

76.—(1) The amount of a student's grant income to be taken into account in assessing his income must, subject to sub-paragraphs (2) and (3), be the whole of his grant income.

(2) There must be excluded from a student's grant income any payment—

- (a) intended to meet tuition fees or examination fees;
 - (b) in respect of the student's disability;
 - (c) intended to meet additional expenditure connected with term time residential study away from the student's educational establishment;
 - (d) on account of the student maintaining a home at a place other than that at which he resides during his course;
 - (e) on account of any other person but only if that person is residing outside the United Kingdom and there is no applicable amount in respect of him; (f)
- intended to meet the cost of books and equipment;
- (g) intended to meet travel expenses incurred as a result of his attendance on the course;
 - (h) intended for the child care costs of a child dependant;
 - (i) of higher education bursary for care leavers made under Part 3 of the Children Act 1989. (3)

Where a student does not have a student loan and is not treated as possessing such a loan, there must be excluded from the student's grant income—

- (a) the sum of £303 per academic year in respect of travel costs; and

(b) the sum of £390 per academic year towards the costs of books and equipment, whether or not any such costs are incurred.

(4) There must also be excluded from a student's grant income the grant for dependants known as the parents' learning allowance paid pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 or section 22 of the Teaching and Higher Education Act 1998(175).

- (5) Subject to sub-paragraphs (6) and (7), a student's grant income must be apportioned—
- (a) subject to sub-paragraph (8), in a case where it is attributable to the period of study, equally between the weeks in that period beginning with the support week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period of study;
 - (b) in any other case, equally between the weeks in the period beginning with the support week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.
- (6) Any grant in respect of dependants paid under section 63(6) of the Health Services and Public Health Act 1968 (grants in respect of the provision of instruction to officers of hospital authorities) and any amount intended for the maintenance of dependants under Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 must be apportioned equally over the period of 52 weeks or, if there are 53 support weeks (including part-weeks) in the year, 53.
- (7) In a case where a student is in receipt of a student loan or where he could have acquired a student loan by taking reasonable steps but had not done so, any amount intended for the maintenance of dependants to which neither sub-paragraph (6) nor paragraph 80(2) (other amounts to be disregarded) applies, must be apportioned over the same period as the student's loan is apportioned or, as the case may be, would have been apportioned.
- (8) In the case of a student on a sandwich course, any periods of experience within the period of study must be excluded and the student's grant income must be apportioned equally between the weeks in the period beginning with the support week, the first day of which immediately follows the last day of the period of experience and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the period of study.

Calculation of covenant income where a contribution is assessed

77.—(1) Where a student is in receipt of income by way of a grant during a period of study and a contribution has been assessed, the amount of his covenant income to be taken into account for that period and any summer vacation immediately following must be the whole amount of the covenant income less, subject to sub-paragraph (3), the amount of the contribution.

- (2) The weekly amount of the student's covenant must be determined—
- (a) by dividing the amount of income which falls to be taken into account under sub-paragraph (1) by 52 or 53, whichever is reasonable in the circumstances; and
 - (b) by disregarding £5 from the resulting amount.

(3) For the purposes of sub-paragraph (1), the contribution must be treated as increased by the amount (if any) by which the amount excluded under paragraph 76(2)(g) falls short of the amount specified in paragraph 7(2) of Schedule 2 to the Education (Mandatory Awards) Regulations 2003 (travel expenditure).

Covenant income where no grant income or no contribution is assessed

78.—(1) Where a student is not in receipt of income by way of a grant the amount of his covenant income must be calculated as follows—

- (a) any sums intended for any expenditure specified in paragraph 76(2)(a) to (e) necessary as a result of his attendance on the course must be disregarded;
- (b) any covenant income, up to the amount of the standard maintenance grant, which is not so disregarded, must be apportioned equally between the weeks of the period of study;
- (c) there must be disregarded from the amount so apportioned the amount which would have been disregarded under paragraph 76(2)(f) and (3) had the student been in receipt of the standard maintenance grant; and

- (d) the balance, if any, must be divided by 52 or 53 whichever is reasonable in the circumstances and treated as weekly income of which £5 must be disregarded.
- (2) Where a student is in receipt of income by way of a grant and no contribution has been assessed, the amount of his covenanted income must be calculated in accordance with paragraphs (a) to (d) of sub-paragraph (1), except that—
 - (a) the value of the standard maintenance grant must be abated by the amount of such grant income less an amount equal to the amount of any sums disregarded under paragraph 76(2)(a) to (e); and
 - (b) the amount to be disregarded under sub-paragraph (1)(c) must be abated by an amount equal to the amount of any sums disregarded under paragraph 76(2)(f) and (g) and (3).

Relationship with amounts to be disregarded under Schedule 8

79. No part of a student's covenant income or grant income is to be disregarded under paragraph 19 of Schedule 8 (disregard of certain charitable and voluntary, etc., payments).

Other amounts to be disregarded

80.—(1) For the purposes of ascertaining income other than grant income, covenant income and loans treated as income in accordance with paragraph 81 (treatment of student loans), any amounts intended for any expenditure specified in paragraph 76(2) (calculation of grant income), necessary as a result of his attendance on the course must be disregarded.

(2) But sub-paragraph (1) applies only if, and to the extent that, the necessary expenditure exceeds or is likely to exceed the amount of the sums disregarded under paragraph 76(2) or (3), 77(3), 78(1)(a) or (c) or 81(5) (calculation of grant income, covenant income and treatment of student loans) on like expenditure.

Treatment of student loans

81.—(1) A student loan is to be treated as income.

(2) In calculating the weekly amount of the loan to be taken into account as income—

- (a) in respect of a course that is of a single academic year's duration or less, a loan which is payable in respect of that period is to be apportioned equally between the weeks in the period beginning with—
 - (i) except in a case where sub-paragraph (ii) applies, the support week, the first day of which coincides with, or immediately follows, the first day of the single academic year;
 - (ii) where the student is required to start attending the course in August or where the course is less than an academic year's duration, the support week, the first day of which coincides with, or immediately follows, the first day of the course,
- (b) in respect of an academic year of a course which starts other than on 1st September, a loan which is payable in respect of that academic year is to be apportioned equally between the weeks in the period—
 - (i) beginning with the support week, the first day of which coincides with or immediately follows, the first day of that academic year, and
 - (ii) ending with the support week, the last day of which coincides with or immediately precedes, the last day of that academic year,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the course;

but excluding any support weeks falling entirely within the quarter during which, in the opinion of the authority, the longest of any vacation is taken and for the purposes of this

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paragraph, “quarter” has the same meaning as for the purposes of the Education (Student Support) Regulations 2005;

- (c) in respect of the final academic year of a course (not being a course of a single year’s duration), a loan which is payable in respect of that final academic year is to be apportioned equally between the weeks in the period beginning with—

- (i) except in a case where sub-paragraph (ii) applies, the support week, the first day of which coincides with, or immediately follows, the first day of that academic year;
- (ii) where the final academic year starts on 1st September, the support week, the first day of which coincides with, or immediately follows, the earlier of 1st September or the first day of the autumn term,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of the course;

- (d) in any other case, the loan is to be apportioned equally between the weeks in the period beginning with the earlier of—

- (i) the first day of the first support week in September; or
- (ii) the support week, the first day of which coincides with, or immediately follows the first day of the autumn term,

and ending with the support week, the last day of which coincides with, or immediately precedes, the last day of June,

and, in all cases, from the weekly amount so apportioned £10 is to be disregarded.

(3) A student is to be treated as possessing a student loan in respect of an academic year where—

- (a) a student loan has been made to him in respect of that year; or
- (b) he could acquire such a loan in respect of that year by taking reasonable steps to do so.

(4) Where a student is treated as possessing a student loan under sub-paragraph (3), the amount of the student loan to be taken into account as income must be, subject to sub-paragraph (5)—

- (a) in the case of a student to whom a student loan is made in respect of an academic year, a sum equal to—

- (i) the maximum student loan he is able to acquire in respect of that year by taking reasonable steps to do so; and
- (ii) any contribution whether or not it has been paid to him;

- (b) in the case of a student to whom a student loan is not made in respect of an academic year, the maximum student loan that would be made to the student if—

- (i) he took all reasonable steps to obtain the maximum student loan he is able to acquire in respect of that year; and
- (ii) no deduction in that loan was made by virtue of the application of a means test.

(5) There must be deducted from the amount of income taken into account under sub-paragraph (4)—

- (a) the sum of £303 per academic year in respect of travel costs; and
- (b) the sum of £390 per academic year towards the cost of books and equipment,

whether or not any such costs are incurred.

(6) A loan for fees, known as a fee loan or a fee contribution loan, made pursuant to regulations made under Article 3 of the Education (Student Support) (Northern Ireland) Order 1998, section 22 of the Teaching and Higher Education Act 1998 or section 73(f) of the Education (Scotland) Act 1980, shall be disregarded as income.

Treatment of payments from access funds

82.—(1) This paragraph applies to payments from access funds that are not payments to which paragraph 85(2) or (3) (income treated as capital) applies.

(2) A payment from access funds, other than a payment to which sub-paragraph (3) applies, must be disregarded as income.

(3) Subject to sub-paragraph (4) of this paragraph and paragraph 40 of Schedule 8 (disregards in the calculation of income other than earnings: persons who are not pensioners)—

(a) any payments from access funds which are intended and used for an item of food, ordinary clothing or footwear, household fuel, or rent of a single applicant or, as the case may be, of the applicant or any other member of his family, and

(b) any payments from access funds which are used for any council tax or water charges for which that applicant or member is liable,

must be disregarded as income to the extent of £20 per week.

(4) Where a payment from access funds is made—

(a) on or after 1st September or the first day of the course, whichever first occurs, but before receipt of any student loan in respect of that year and that payment is intended for the purpose of bridging the period until receipt of the student loan; or

(b) before the first day of the course to a person in anticipation of that person becoming a student,

that payment must be disregarded as income.

Disregard of contribution

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

Further disregard of student's income

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

Income treated as capital

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

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

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

Disregard of changes occurring during summer vacation

86. In calculating a student's income the authority must disregard any change in the standard maintenance grant, occurring in the recognised summer vacation appropriate to the student's course, if that vacation does not form part of his period of study from the date on which the change occurred to the end of that vacation.

PART 12

Extended support

CHAPTER 1

Extended supports: pensioners

Extended support: pensioners

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

Extended support (qualifying contributory benefits): pensioners

88.—(1) Except in the case of an applicant who is in receipt of state pension credit, an applicant who is entitled to support under this scheme by virtue of falling within any of classes A to C is entitled to an extended support (qualifying contributory benefits) where—

- (a) the applicant or the applicant's partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant's partner was not entitled to and not in receipt of a qualifying income-related benefit in the last support week in which the applicant, or the applicant's partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to support under this scheme by virtue of falling within any of classes A to C where—

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

Duration of extended support period (qualifying contributory benefits): pensioners

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

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

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

Amount of extended support (qualifying contributory benefits): pensioners

90.—(1) For any week during the extended support period the amount of the extended support (qualifying contributory benefits) the applicant is entitled to is the greater of—

- (a) the amount of council tax support to which the applicant was entitled by virtue of falling within any of classes A to C in the last support week before the applicant or the applicant's partner ceased to be entitled to a qualifying contributory benefit;
- (b) the amount of support under this scheme to which the applicant would be entitled under by virtue of falling within any of classes A to C for any support week during the extended support period, if paragraph 88 (extended supports (qualifying contributory benefits): pensioners) did not apply to the applicant; or
- (c) the amount of support under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes A to C, if paragraph 88 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended support (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for support under this scheme, the authority must not award support in pursuance of that application during the extended support period.

Extended support (qualifying contributory benefits)—movers: pensioners

91.—(1) This paragraph applies—

- (a) to a mover(176); and
- (b) from the Monday following the day of the move.

(2) The amount of the extended support (qualifying contributory benefits) awarded from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme which was payable to the mover for the last support week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended support (qualifying contributory benefits) may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

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

92.—(1) Where an applicant's support under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in

paragraph 88(1)(b), that support does not cease to have effect until the end of the extended support period.

(2) Part 13 (when entitlement begins and change of circumstances) does not apply to any extended support (qualifying contributory benefits) payable in accordance with paragraph 90(1)(a) or paragraph 91(2) (amount of extended support — movers: pensioners).

Continuing support where state pension credit claimed: pensioners

93.—(1) This paragraph applies where—

- (a) the applicant is entitled to support under this scheme; (b) sub-paragraph (2) is satisfied; and
- (c) either—
 - (i) the applicant has attained the qualifying age for state pension credit or, if his entitlement to income-based jobseeker's allowance or income-related employment and support allowance continued beyond that age, has attained the age of 65; or
 - (ii) the applicant's partner has actually claimed state pension credit.

(2) This sub-paragraph is only satisfied if the Secretary of State has certified to the authority that the applicant's partner has actually claimed state pension credit or that—

- (a) the applicant's award of—
 - (i) income support has terminated because the applicant has attained the qualifying age for state pension credit; or
 - (ii) income-based jobseeker's allowance or income-related employment and support allowance has terminated because the applicant has attained the qualifying age for state pension credit or the age of 65; and
- (b) the applicant has claimed or is treated as having claimed or is required to make a claim for state pension credit.

(3) Subject to sub-paragraph (4), in a case to which this paragraph applies, a person continues to be entitled to support under this scheme for the period of 4 weeks beginning on the day following the day the applicant's entitlement to income support or, as the case may be, income-based jobseeker's allowance, income-related employment and support allowance, ceased, if and for so long as the applicant otherwise satisfies the conditions for entitlement to support under this scheme.

(4) Where support under this scheme is awarded for the period of 4 weeks in accordance with sub-paragraph (3) above, and the last day of that period falls on a day other than the last day of a support week, then support under this scheme must continue to be awarded until the end of the support week in which the last day of that period falls.

(5) Throughout the period of 4 weeks specified in sub-paragraph (3) and any further period specified in sub-paragraph (4)—

- (a) the whole of the income and capital of the applicant is to be disregarded;
- (b) the maximum council tax support amount of the applicant is to be that which was applicable in his case immediately before that period commenced.

(6) The maximum support is to be calculated in accordance with paragraph 29(1) if, since the date it was last calculated—

- (a) the applicant's council tax liability has increased; or
- (b) a change in the deduction under paragraph 30 falls to be made.

CHAPTER 2

Extended support: persons who are not pensioners

Extended support: persons who are not pensioners

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

Extended support: persons who are not pensioners

95.—(1) An applicant who is entitled to a support under this scheme by virtue of falling within any of classes D to G is entitled to an extended support where—

- (a) the applicant or the applicant's partner was entitled to a qualifying income-related benefit;
- (b) entitlement to a qualifying income-related benefit ceased because the applicant or the applicant's partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more; and
- (c) the applicant or the applicant's partner had been entitled to and in receipt of a qualifying income-related benefit, jobseeker's allowance or a combination of those benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying income-related benefit ceased.

(2) For the purpose of sub-paragraph (1)(c), an applicant or an applicant's partner is to be treated as having been entitled to and in receipt of a qualifying income-related benefit or jobseeker's allowance during any period of less than five weeks in respect of which the applicant or the applicant's partner was not entitled to any of those benefits because the applicant or the applicant's partner was engaged in remunerative work as a consequence of their participation in an employment zone programme.

(3) For the purpose of this paragraph, where an applicant or an applicant's partner is entitled to and in receipt of joint-claim jobseeker's allowance they must be treated as being entitled to and in receipt of jobseeker's allowance.

(4) An applicant must be treated as entitled to a support under this scheme by virtue of falling within any of classes D to G where—

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

(5) This paragraph does not apply where, on the day before an applicant's entitlement to income support ceased, regulation 6(5) of the Income Support (General) Regulations 1987(177) (remunerative work: housing costs) applied to that applicant.

Duration of extended support period: persons who are not pensioners

96.—(1) Where an applicant is entitled to an extended support, the extended support period starts on the first day of the support week immediately following the support week in which

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

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

(3) The extended support period ends—

- (a) at the end of a period of four weeks; or

- (b) on the date on which the applicant to whom the extended support is payable has no liability for council tax, if that occurs first.

Amount of extended support: persons who are not pensioners

97.—(1) For any week during the extended support period the amount of the extended support to which an applicant is entitled is to be the higher of—

- (a) the amount of the support under this scheme to which the applicant was entitled by virtue of falling within any of classes D to G in the last support week before the applicant or the applicant’s partner ceased to be entitled to a qualifying income-related benefit;
- (b) the amount of support under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to G for any support week during the extended support period, if paragraph 95 (extended support: persons who are not pensioners) did not apply to the applicant; or
- (c) the amount of support under this scheme to which the applicant’s partner would be entitled by virtue of falling within any of classes D to G, if paragraph 95 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended support under this paragraph and the applicant’s partner makes an application for a support under this scheme, no amount of support under this scheme is to be awarded by the authority during the extended support period.

Extended support—movers: persons who are not pensioners

98.—(1) This paragraph applies—

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

(2) The amount of the extended support awarded from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme to which the mover would have been entitled had they, or their partner, not ceased to be entitled to a qualifying income-related benefit.

(3) Where a mover’s liability to pay council tax in respect of the new dwelling is to a second authority, the extended support (qualifying contributory benefits) may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

Relationship between extended support and entitlement to support by virtue of classes D to G

99.—(1) Where an applicant’s entitlement to support under this scheme would have ended when the applicant ceased to be entitled to a qualifying income-related benefit in the

circumstances listed in paragraph 95(1)(b), that entitlement does not cease until the end of the extended support period.

(2) Paragraphs 106 and 107 do not apply to any extended support payable in accordance with paragraph 95(1)(a) or 98(2) (amount of extended support—movers: persons who are not pensioners).

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

100.—(1) An applicant who is entitled to support under this scheme by virtue of falling within any of classes D to G is entitled to an extended support (qualifying contributory benefits) where—

- (a) the applicant or the applicant’s partner was entitled to a qualifying contributory benefit;
- (b) entitlement to a qualifying contributory benefit ceased because the applicant or the applicant’s partner—
 - (i) commenced employment as an employed or self-employed earner;
 - (ii) increased their earnings from such employment; or
 - (iii) increased the number of hours worked in such employment,and that employment is or, as the case may be, those increased earnings or increased number of hours are expected to last five weeks or more;
- (c) the applicant or the applicant’s partner had been entitled to and in receipt of a qualifying contributory benefit or a combination of qualifying contributory benefits for a continuous period of at least 26 weeks before the day on which the entitlement to a qualifying contributory benefit ceased; and
- (d) the applicant or the applicant’s partner was not entitled to and not in receipt of a qualifying income-related benefit in the last support week in which the applicant, or the applicant’s partner, was entitled to a qualifying contributory benefit.

(2) An applicant must be treated as entitled to support under this scheme by virtue of falling within any of classes D to G where—

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

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

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

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

(3) The extended support period ends—

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

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

102.—(1) For any week during the extended support period the amount of the extended support (qualifying contributory benefits) payable to an applicant is to be the greater of—

- (a) the amount of support under this scheme to which the applicant was entitled by virtue of falling within any of classes D to G in the last support week before the applicant or the applicant’s partner ceased to be entitled to a qualifying contributory benefit;

- (b) the amount of support under this scheme to which the applicant would be entitled by virtue of falling within any of classes D to G for any support week during the extended support period, if paragraph 100 (extended supports (qualifying contributory benefits): persons who are not pensioners) did not apply to the applicant; or
- (c) the amount of support under this scheme to which the applicant's partner would be entitled by virtue of falling within any of classes D to G, if paragraph 100 did not apply to the applicant.

(2) Sub-paragraph (1) does not apply in the case of a mover.

(3) Where an applicant is in receipt of an extended support (qualifying contributory benefits) under this paragraph and the applicant's partner makes an application for support under this scheme, no amount of support may be allowed by the appropriate authority during the extended support period.

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

103.—(1) This paragraph applies—

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

(2) The amount of the extended support (qualifying contributory benefit) payable from the Monday from which this paragraph applies until the end of the extended support period is to be the amount of support under this scheme which was awarded to the mover for the last support week before the mover, or the mover's partner, ceased to be entitled to a qualifying contributory benefit.

(3) Where a mover's liability to pay council tax in respect of the new dwelling is to a second authority, the extended support (qualifying contributory benefits) may take the form of a payment from this authority to—

- (a) the second authority; or
- (b) the mover directly.

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

104.—(1) Where an applicant's support under this scheme would have ended when the applicant ceased to be entitled to a qualifying contributory benefit in the circumstances listed in paragraph 100(1)(b), that support does not cease until the end of the extended support period.

(2) Paragraphs 106 and 107 (dates on which entitlement begins and change of circumstances take effect) do not apply to any extended support (qualifying contributory benefits) payable in accordance with paragraph 102(1)(a) or 103(2) (amount of extended support—movers: persons who are not pensioners).

CHAPTER 3

Extended support: movers in the authority's area

Extended support: applicant moving into the authority's area

105. Where—

- (a) an application is made to the authority ("the current authority") for support under this scheme, and
- (b) the applicant, or the partner of the applicant, is in receipt of an extended support from— (i) another billing authority in England; or

(ii) a billing authority in Wales,

the current authority must reduce any support to which the applicant is entitled under this scheme by the amount of that extended support.

PART 13

When entitlement begins and change of circumstances

Date on which entitlement begins

106.—(1) Subject to sub-paragraph (2), any person by whom or in respect of whom an application for support under this scheme is made and who is otherwise entitled to that support is so entitled from the support week following the date on which that application is made or is treated as made.

(2) Where a person is otherwise entitled to support under this scheme and becomes liable for the first time for the authority's council tax in respect of a dwelling of which he is a resident in the support week in which his application is made or is treated as made, he is so entitled from that support week.

Date on which change of circumstances is to take effect

107.—(1) Except in cases where paragraph 60 (disregard of changes in tax, contributions, etc.) applies and subject to the following provisions of this paragraph and (in the case of applicants who are pensioners) paragraph 108 (change of circumstance where state pension credit in payment), a change of circumstances which affects entitlement to, or the amount of, support under this scheme ("change of circumstances"), takes effect from the first day of the support week following the date on which the change actually occurs.

(2) Where that change is cessation of entitlement to any benefit under the benefit Acts, the date on which the change actually occurs is the day immediately following the last day of entitlement to that benefit.

(3) Subject to sub-paragraph (4), where the change of circumstances is a change in the amount of council tax payable, it takes effect from the day on which it actually occurs.

(4) Where the change of circumstances is a change in the amount a person is liable to pay in respect of council tax in consequence of regulations under section 13 of the 1992 Act (reduced amounts of council tax) or changes in the discount to which a dwelling may be subject under section 11 or 11A of that Act(178) (discounts), it takes effect from the day on which the change in amount has effect.

(5) Where the change of circumstances is the applicant's acquisition of a partner, the change takes effect on the day on which the acquisition takes place.

(6) Where the change of circumstances is the death of an applicant's partner or their separation, it takes effect on the day the death or separation occurs.

(7) If two or more changes of circumstances occurring in the same support week would, but for this paragraph, take effect in different support weeks in accordance with sub-paragraphs (1) to (6) they take effect from the day to which the appropriate sub-paragraph from (3) to (6) above refers, or, where more than one day is concerned, from the earlier day.

(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the SSCBA, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances takes effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(9) Without prejudice to sub-paragraph (8), where the change of circumstances is the payment of income, or arrears of income, in respect of a past period, the change of circumstances takes effect from the first day on which such income, had it been timeously paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of this scheme.

(10) Sub-paragraph (11) applies if—

- (a) the applicant or his partner has attained the age of 65; and
- (b) either—
 - (i) a non-dependant took up residence in the applicant's dwelling; or
 - (ii) there has been a change of circumstances in respect of a non-dependant so that the amount of the deduction which falls to be made under paragraph 30 increased.

(11) Where this sub-paragraph applies, the change of circumstances referred to in sub-paragraph (10)(b) takes effect from the effective date.

(12) In sub-paragraph (11), but subject to sub-paragraph (13), "the effective date" means—

- (a) where more than one change of a kind referred to in sub-paragraph (10)(b) relating to the same non-dependant has occurred since—
 - (i) the date on which the applicant's entitlement to support under this scheme first began; or
 - (ii) the date which was the last effective date in respect of such a change, whichever is the later, the date which falls 26 weeks after the date on which the first such change occurred;
- (b) where paragraph (a) does not apply, the date which falls 26 weeks after the date on which the change referred to in sub-paragraph (10)(b) occurred.

(13) If in any particular case the date determined under sub-paragraph (12) is not the first day of a support week, the effective date in that case is to be the first day of the next support week to commence after the date determined under that sub-paragraph.

(14) subparagraph (15) applies to persons who fall into classes D, E F and G:

(15)where—

the change of circumstances is a change of circumstances that is required by this scheme to be notified, and

that change of circumstances is notified more than one month after it occurs, and

the superseding decision is advantageous to the claimant,

the date of notification of the change of circumstances shall be treated as the date on which the change of circumstances occurred.

(16) For the purposes of making a decision under this scheme a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for the purposes of paragraph (1) shall—

- (a) include particulars of the change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
- (b) be made within 13 months of the date on which the change occurred.

(3) An application for the purposes of paragraph (1) shall not be granted unless the appropriate

relevant authority is satisfied that—

- (a) it is reasonable to grant the application;
 - (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
 - (c) special circumstances are relevant and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.
- (4) In determining whether it is reasonable to grant the application, the authority shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for a superseding decision is made, the more compelling should be the special circumstances on which the application is based.
- (5) In determining whether it is reasonable to grant an application, no account shall be taken of the following—
- (a) that the applicant was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by this scheme); or
 - (b) that the Valuation Tribunal or a court has taken a different view of the law from that previously understood and applied.
- (6) An application under this rule which has been refused may not be renewed.

Change of circumstances where state pension credit in payment

108.—(1) Sub-paragraphs (2) and (3) apply where—

- (a) the applicant is in receipt of state pension credit;
- (b) the amount of state pension credit awarded to him is changed in consequence of a change in the applicant's circumstances or the correction of an official error; and
- (c) the change in the amount of state pension credit payable to the applicant results in a change in the amount of a support he receives under this scheme.

(2) Where the change of circumstance is that an increase in the amount of state pension credit payable to the applicant results in—

- (a) an increase in the support he receives under this scheme, the change takes effect from the first day of the support week in which state pension credit becomes payable at the increased rate; or
- (b) a decrease in the support he receives under this scheme, the change takes effect from the first day of the support week next following the date on which—
 - (i) the local authority receives notification from the Secretary of State of the increase in the amount of state pension credit; or
 - (ii) state pension credit is increased,whichever is the later.

(3) Where the change of circumstance (“the relevant change”) is that the applicant's state pension credit has been reduced and in consequence the support the applicant receives under this scheme reduces—

- (a) in a case where the applicant's state pension credit has been reduced because the applicant failed to notify the Secretary of State timeously of a change of circumstances, the relevant change takes effect from the first day of the support week from which state

pension credit was reduced; or

- (b) in any other case the relevant change takes effect from the first day of the support week next following the date on which—
 - (i) the authority receives notification from the Secretary of State of the support in the amount of state pension credit; or
 - (ii) state pension credit is reduced,whichever is the later.

(4) Where the change of circumstance is that state pension credit is reduced and in consequence of the change, the amount of support he receives under this scheme is increased, the change takes effect from the first day of the support week in which state pension credit becomes payable at the reduced rate.

(5) Where a change of circumstance occurs in that an award of state pension credit has been made to the applicant or his partner and this would result in a decrease in the amount of support he receives under this scheme, the change takes effect from the first day of the support week next following the date on which—

- (a) the authority receives notification from the Secretary of State of the award of state pension credit; or
- (b) entitlement to state pension credit begins,

whichever is the later.

(6) Where, in the case of an applicant who, or whose partner, is or has been awarded state pension credit comprising only the savings credit, there is—

- (a) a change of circumstances of a kind described in any of sub-paragraphs (2) to (5) which results from a relevant calculation or estimate; and
- (b) a change of circumstances which is a relevant determination,

each of which results in a change in the amount of support the applicant receives under this scheme, the change of circumstances referred to in sub-paragraph (b) takes effect from the day specified in sub-paragraph (2), (3), (4) or (5) as the case may be, in relation to the change referred to in paragraph (a).

(7) Where a change of circumstance occurs in that a guarantee credit has been awarded to the applicant or his partner and this would result in an increase in the amount of support the applicant receives under this scheme, the change takes effect from the first day of the support week next following the date in respect of which the guarantee credit is first payable.

(8) Where a change of circumstances would, but for this sub-paragraph, take effect under the preceding provisions of this paragraph within the 4 week period specified in paragraph 93

(continuing support where state pension credit claimed), that change takes effect on the first day of the first support week to commence after the expiry of the 4 week period.

(9) In this paragraph—

“official error” means an error made by—

- (a) the authority or a person—
 - (i) authorised to carry out any function of the authority relating to this scheme; or
 - (ii) providing services relating to this scheme directly or indirectly to the authority; or
- (b) an officer of—
 - (i) the Department for Work and Pensions; or
 - (ii) the Commissioners of Inland Revenue, acting as such,

but excludes any error caused wholly or partly by any person or body not specified in

paragraph (a) or (b) of this definition and any error of law which is shown to have been an error only by virtue of a subsequent decision of the court;

“relevant calculation or estimate” means the calculation or estimate made by the Secretary of State of the applicant’s or, as the case may be, the applicant’s partner’s income and capital for the purposes of the award of state pension credit;

“relevant determination” means a change in the determination by the authority of the applicant’s income and capital using the relevant calculation or estimate, in accordance with paragraph 36(1).

PART 14

Applications (including duties to notify authority of change of circumstances)

Making an application

109.—(1) In the case of—

- (a) a couple or (subject to paragraph (b)) members of a polygamous marriage an application is to be made by whichever one of them they agree should so apply or, in default of agreement, by such one of them as the authority determines; or
- (b) in the case of members of a polygamous marriage to whom paragraph 37 (income and capital: award of universal credit) applies, an application is to be made by whichever one of the parties to the earliest marriage that still subsists they agree should so apply or, in default of agreement, by such one of them as the authority determines.

(2) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act, and—

- (a) a deputy has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
- (b) in Scotland, his estate is being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(**179**) 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(**180**), the Enduring Powers of Attorney Act 1985(**181**) or the Mental Capacity Act 2005 or otherwise,

that deputy, judicial factor, guardian or attorney, as the case may be, may make an application on behalf of that person.

(3) Where a person who is liable to pay council tax in respect of a dwelling is unable for the time being to act and sub-paragraph (2) does not apply to him, the authority may, upon written application made to them by a person who, if a natural person, is over the age of 18, appoint that person to exercise on behalf of the person who is unable to act, any right to which that person might be entitled under this scheme and to receive and deal on his behalf with any sums payable to him.

(4) Where a person who is liable to pay council tax in respect of a dwelling is for the time being unable to act and the Secretary of State has appointed a person to act on his behalf under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act), the authority may if that person agrees, treat him as if he had been appointed by them under sub-paragraph (3).

(5) Where the authority has made an appointment under sub-paragraph (3) or treated a person as an appointee under sub-paragraph (4)—

- (a) it may at any time revoke the appointment;

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

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

(7) The authority must—

- (a) inform any person making an application of the duty imposed by paragraph 115(1)(a);
- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances a change in which might affect entitlement to the support or its amount.

Date on which an application is made

110.—(1) Subject to sub-paragraph (7), the date on which an application is made is—

(a) in a case where—

- (i) an award of state pension credit which comprises a guarantee credit has been made to the applicant or his partner, and
- (ii) the application is made within one month of the date on which the claim for that state pension credit which comprises a guarantee credit was received at the appropriate DWP office,

the first day of entitlement to state pension credit which comprises a guarantee credit arising from that claim;

(b) in a case where—

- (i) an applicant or his partner is a person in receipt of a guarantee credit,
- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
- (iii) the application to the authority is received at the designated office within one month of the date of the change,

the date on which the change takes place;

(c) in a case where—

- (i) an award of income support, an income-based jobseeker's allowance or an income-related employment and support allowance or an award of universal credit has been made to the applicant or his partner, and
- (ii) the application is made within one month of the date on which the claim for that income support, jobseeker's allowance, employment and support allowance or universal credit was received,

the first day of entitlement to income support, an income-based jobseeker's allowance, an income-related employment and support allowance or universal credit arising from that claim;

(d) in a case where—

- (i) an applicant or his partner is a person on income support, an income-based jobseeker's allowance or an income-related employment and support allowance or has an award of universal credit,

- (ii) the applicant becomes liable for the first time to pay council tax in respect of the dwelling which he occupies as his home, and
 - (iii) the application to the authority is received at the designated office within one month of the date of the change,
the date on which the change takes place;
 - (e) in a case where—
 - (i) the applicant is the former partner of a person who was, at the date of his death or their separation, entitled to support under this scheme, and
 - (ii) where the applicant makes an application for support under this scheme within one month of the date of the death or the separation,
the date of the death or separation;
 - (f) except where paragraph (a), (b) or (e) is satisfied, in a case where a properly completed application is received within one month (or such longer period as the authority considers reasonable) of the date on which an application form was issued to the applicant following the applicant first notifying, by whatever means, the authority of an intention to make an application, the date of first notification;
 - (g) in any other case, the date on which the application is received at the designated office.
- (2) For the purposes only of sub-paragraph (1)(c) a person who has been awarded an income-based jobseeker's allowance or an income-related employment and support allowance is to be treated as entitled to that allowance for any days which immediately precede the first day in that award and on which he would, but for regulations made under—
- (a) in the case of income-based jobseeker's allowance, paragraph 4 of Schedule 1 to the Jobseekers Act 1995 (waiting days); or
 - (b) in the case of income-related employment and support allowance, paragraph 2 of Schedule 2 to the Welfare Reform Act 2007 (waiting days),
- have been entitled to that allowance.
- (3) Removed
- (a) Removed
 - (b) Removed
- (4) The authority is to treat a defective application as if it had been validly made in the first instance if, in any particular case, the conditions specified in sub-paragraph (5)(a), (b) or (c) are satisfied.
- (5) The conditions are that—
- (a) where paragraph 4(a) of Schedule 1 (incomplete form) applies, the authority receives at its designated office the properly completed application or the information requested to complete it or the evidence within one month of the request, or such longer period as the authority may consider reasonable; or
 - (b) where paragraph 4(b) of Schedule 1 (application not on approved form or further information requested by authority) applies—
 - (i) the approved form sent to the applicant is received at the designated office properly completed within one month of it having been sent to him; or, as the case may be,
 - (ii) the applicant supplies whatever information or evidence was requested under paragraph 4 of that Schedule within one month of the request,
 or, in either case, within such longer period as the authority may consider reasonable; or
 - (c) where the authority has requested further information, the authority receives at its designated office the properly completed application or the information requested to complete it within one month of the request or within such longer period as the authority

considers reasonable.

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

(7) Except in the case of an application made by a person treated as not being in Great Britain, where the applicant is not entitled to support under this scheme in the support week immediately following the date of his application but the authority is of the opinion that unless there is a change of circumstances he will be entitled to support under this scheme for a period beginning not later than—

- (a) in the case of an application made by—
 - (i) a pensioner, or
 - (ii) a person who has attained, or whose partner has attained, the age which is 17 weeks younger than the qualifying age for state pension credit, the seventeenth support week following the date on which the application is made, or
- (b) in the case of an application made by a person who is not a pensioner, the thirteenth support week following the date on which the application is made,

the authority may treat the application as made on a date in the support week immediately preceding the first support week of that period of entitlement and award support accordingly.

(8) In this paragraph “appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support, a jobseeker’s allowance or an employment and support allowance.

Back-dating of applications: pensioners

111.—(1) Subject to sub-paragraph (2), the time for the making of an application under this scheme by a pensioner is as regards any day on which, apart from satisfying the condition of making an application, the applicant is entitled to such support, that day and the period of three months immediately following it.

(2) In any case where paragraph 110(1)(a) applies, sub-paragraph (1) does not entitle a person to apply for support under this scheme in respect of any day earlier than three months before the date on which the claim for state pension credit is made (or treated as made by virtue of any provision of the Social Security (Claims and Payments) Regulations 1987).

Back-dating of applications: persons who are not pensioners

112.—(1) Where an applicant who is a person who is not a pensioner—

- (a) makes an application under this scheme which includes (or which he subsequently requests should include) a period before the application is made; and
- (b) from a day in that period, up to the date he made the application (or subsequently requested that the application should include a past period), the applicant had continuous good cause for failing to make an application (or request that the application should include that period),

the application is to be treated as made on the date determined in accordance with sub-paragraph (2).

(2) That date is the latest of—

- (a) the first day from which the applicant had continuous good cause;

- (b) the day 3 months before the date the application was made;
- (c) the day 3 months before the date when the applicant requested that the application should include a past period.

Information and evidence

113.—(1) Subject to sub-paragraph (3), a person who makes an application for support under this scheme must satisfy sub-paragraph (2) in relation both to himself and to any other person in respect of whom he is making the application.

(2) This sub-paragraph is satisfied in relation to a person if—

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

(3) Sub-paragraph (2) does not apply—

- (a) in the case of a child or young person in respect of whom an application for support is made;
- (b) to a person who—
 - (i) is a person treated as not being in Great Britain for the purposes of this scheme(182);
 - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999; and
 - (iii) has not previously been allocated a national insurance number.

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

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

(6) Where a request is made under sub-paragraph (4), the authority must—

- (a) inform the applicant or the person to whom support under this scheme has been awarded of his duty under paragraph 115 (duty to notify change of circumstances) to notify the authority of any change of circumstances; and
- (b) without prejudice to the extent of the duty owed under paragraph 115, indicate to him either orally or by notice or by reference to some other document available to him on application and without charge, the kind of change of circumstances which is to be notified.

(7) This sub-paragraph applies to any of the following payments—

- (a) a payment which is—
 - (i) disregarded under paragraph 28 of Schedule 8 (sums disregarded in the calculation of income other than earnings: persons who are not pensioners) or paragraph 38 of Schedule 10 (capital disregards: persons who are not pensioners); or

- (ii) made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund;
 - (b) a payment which is disregarded under paragraph 16 of Schedule 9 (payments made under certain trusts and certain other payments), other than a payment under the Independent Living Fund (2006);
 - (c) a payment which is disregarded under paragraph 30(9)(b) or (c) (payment made under certain trusts etc.) or paragraph 2(b) or (c) of Schedule 4 (payments made under certain trusts etc.) other than a payment under the Independent Living Fund (2006).
- (8) Where an applicant or a person to whom support under this scheme has been awarded or any partner has attained the qualifying age for state pension credit and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, he must where the authority so requires furnish the following information—
- (a) the name and address of the pension fund holder(183);
 - (b) such other information including any reference or policy number as is needed to enable the personal pension scheme to be identified.

Amendment and withdrawal of application

114.—(1) A person who has made an application may amend it at any time before a decision has been made on it by a notice in writing delivered or sent to the designated office.

(2) Removed

(3) Any application amended in accordance with sub-paragraph (1) is to be treated as if it had been amended in the first instance.

(4) A person who has made an application may withdraw it by notice to the designated office at any time before a decision has been made on it.

(5) Removed

(6) Any notice of withdrawal given in accordance with sub-paragraph (4) has effect when it is received.

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

Duty to notify changes of circumstances

115.—(1) Subject to sub-paragraphs (3), (6) and (7), the applicant (or any person acting on his behalf) must comply with sub-paragraph (2) if there is a relevant change of circumstances at any time—

(a) between the making of an application and a decision being made on it, or

(b) after the decision is made (where the decision is that the applicant is entitled to support under this scheme) including at any time while the applicant is in receipt of such support.

(2) The applicant (or any person acting on his behalf) must notify any change of circumstances which the applicant (or that person) might reasonably be expected to know might affect his entitlement to, or the amount of, support under this scheme (a “relevant change of circumstances”) by giving notice to the authority—

(a) in writing; or

(b) Removed

(i) Removed

- (ii) Removed
- (c) by any other means which the authority agrees to accept in any particular case, within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.
- (3) The duty imposed on a person by sub-paragraph (1) does not extend to notifying—
 - (a) changes in the amount of council tax payable to the authority;
 - (b) changes in the age of the applicant or that of any member of his family;
 - (c) in the case of an applicant in receipt of a relevant benefit, changes in circumstances which affect the amount of the benefit but not the amount of the support under this scheme to which he is entitled, other than the cessation of that entitlement to the benefit.
- (4) For the purposes of sub-paragraph (3)(c) “relevant benefit” means income support, an income-based jobseeker’s allowance or an income-related employment and support allowance or universal credit.
- (5) Notwithstanding sub-paragraph (3)(b) or (c) an applicant is required by sub-paragraph (1) to notify the authority of any change in the composition of his family arising from the fact that a person who was a member of his family is now no longer such a person because he has ceased to be a child or young person.
- (6) The duty imposed on a person by sub-paragraph (1) includes—
 - (a) in the case of a person falling within class C (pensioners: alternative maximum council tax support) giving written notice to the authority of changes which occur in the number of adults in the dwelling or in their total gross incomes and, where any such adult ceases to be in receipt of state pension credit, the date when this occurs;
 - (b) Removed
- (7) A person who has been awarded support under this scheme who is also on state pension credit must report—
 - (a) changes affecting the residence or income of any non-dependant normally residing with the applicant or with whom the applicant normally resides;
 - (b) any absence from the dwelling which exceeds or is likely to exceed 13 weeks.
- (8) In addition to the changes required to be reported under sub-paragraph (7), a person whose state pension credit comprises only the savings credit must also report—
 - (a) changes affecting a child living with him which may result in a change in the amount of support under this scheme allowed in his case, but not changes in the age of the child;
 - (b) any change in the amount of the applicant’s capital to be taken into account which does or may take the amount of his capital to more than £16,000;
 - (c) any change in the income or capital of—
 - (i) a non-dependant whose income and capital are treated as belonging to the applicant in accordance with paragraph 34 (circumstances in which income of a non-dependant is to be treated as applicant’s); or
 - (ii) a person to whom paragraph 36(2)(e) (partner treated as member of the household under paragraph 8) refers,
 and whether such a person or, as the case may be, non-dependant stops living or begins or resumes living with the applicant.
- (9) A person who is entitled to support under this scheme and on state pension credit need only report to the authority the changes specified in sub-paragraphs (7) and (8).

PART 15

Decisions by authority

Decision by authority

116. The authority must make a decision on an application for support under this scheme within 14 days of paragraphs 110 and 113 and Part 1 of Schedule 1 being satisfied, or as soon as reasonably practicable thereafter.

Notification of decision

117.—(1) The authority must notify in writing any person affected by a decision made by it under this scheme—

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

(2) Where the decision is to award support the notification under sub-paragraph (1) must include a statement—

- (a) informing the person affected of the duty imposed by paragraph 115(1)(b);
- (b) explaining the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) setting out the circumstances a change in which might affect entitlement to the support or its amount.

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

(4) In any case, the notification under sub-paragraph (1) must inform the person affected of the procedure by which an appeal may be made and must refer the person to the provisions in this scheme relating to the procedure for making an appeal(184).

(5) A person affected to whom the authority sends or delivers a notification of decision may, within one month of the date of the notification of that decision request in writing the authority to provide a written statement setting out the reasons for its decision on any matter set out in the notice.

(6) The written statement referred to in sub-paragraph (5) must be sent to the person requesting it within 14 days or as soon as reasonably practicable thereafter.

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

(8) This sub-paragraph applies to—

- (a) the applicant;
- (b) in the case of a person who is liable to pay council tax in respect of a dwelling and is unable for the time being to act—
 - (i) a deputy appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or
 - (ii) in Scotland, a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000(185) who has power to apply or, as the case may be, receive benefit on the person's behalf; or

- (iii) an attorney with a general power or a power to apply or, as the case may be, receive benefit, has been appointed by that person under the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005 or otherwise,
- (c) a person appointed by the authority under paragraph 109(3).

PART 16

Circumstances in which a payment may be made

Payment where there is joint and several liability

118.—(1) Where—

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

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

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

(3) Where a person other than the person who is entitled to the support under this scheme made the application for the support and that first person is a person acting pursuant to an appointment under paragraph 109(3) (persons appointed to act for a person unable to act) or is treated as having been so appointed by virtue of paragraph 109(5), the amount of the support may be paid to that person.

SCHEDULE 1

Procedural matters

PART 1

Procedure for an application for support under this scheme

Procedure by which a person may apply for support under this scheme

1. An application will be required for all new claims from the 1st April 2013. Paragraphs 2 to 7 apply to an application for support under this scheme. Applicants currently in receipt of council tax benefit will be assessed under the rules laid out in this scheme from 1st April 2013 without the requirement for an additional application. Applicants currently in receipt of council tax benefit will be required to complete and sign a council tax support claim declaration after 1st April 2013. A failure to return such a declaration will result in the termination of an applicant's council tax support award.

2. An application may be made—

(a) in writing to:

Housing Benefit Office

Po Box 730

Civic Centre

Station Road

Harrow

HA1 2DU,

(b) by means of an electronic communication in accordance with Part 4 of this Schedule.

3.—(1) An application which is made in writing must be made to the designated office on a properly completed form.

(2) The form must be provided free of charge by the authority for the purpose.

4. Where an application made in writing is defective because—

(a) it was made on the form supplied for the purpose but that form is not accepted by the authority as being properly completed; or

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

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

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

5.—(1) If an application made by electronic communication is defective the authority must

provide the person making the application with an opportunity to correct the defect.

(2) An application made by electronic communication is defective if the applicant does not provide all the information the authority requires.

6. Applications made by telephone are not permitted by the authority.

7. Applications made by telephone are not permitted by the authority.

8. -Awards of Council Tax Support will be reviewed periodically as decided by the authority. Failure by an applicant to provide any information requested by the authority in order to confirm entitlement to the satisfaction of the authority may result in termination of that award.

PART 2

Procedure for making an appeal

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

8. A person who is aggrieved by a decision of the authority which affects—

- (a) the person's entitlement to support under this scheme, or
- (b) the amount of any support under this scheme,

may serve a written notice on the authority stating the matter by which, and the grounds on which, he is aggrieved.

9. The authority must—

- (a) consider the matter to which the notice relates; (b)

notify the aggrieved person in writing—

- (i) that the ground is not well founded, giving reasons for that belief; or
- (ii) that steps have been taken to deal with the grievance, stating the steps taken.

10. Where, following notification under paragraph 9(b)(i) or (ii), the person is still aggrieved, or if the authority fails to notify the person aggrieved in accordance with paragraph 9(b) within two months of the service of his notice, he may appeal to a valuation tribunal under section 16 of the 1992 Act.

Obligation to make payments pending appeal

10A. Except in the case of an appeal made in respect of the imposition of a penalty, persons on whom a demand notice has been served must make payment as required by that notice. In the case of an appeal against a penalty however, no amount is payable in that respect while the appeal is outstanding.

PART 3

Procedure for applying for a discretionary reduction

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

11.—(1) An application to the authority for reduction under section 13A(1)(c) of the 1992 Act may be made—

- (a) in writing;
- (b) by means of an electronic communication in accordance with Part 4 of this Schedule; or
- (c) where the authority has published a telephone number for the purposes of receiving such

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applications, by telephone.

(2) Where—

- (a) the authority has made a determination under section 13A(1)(c) in relation to a class of case in which liability is to be reduced; and
- (b) a person in that class would otherwise be entitled to support under this scheme,

that person's application for support under this scheme may also be treated as an application for a reduction under section 13A(1)(c).

PART 4

Electronic communication

Interpretation

12. In this Part—

“information” includes an application, certificate, notice or other evidence;

“official computer system” means a computer system maintained by or on behalf of the authority for the sending, receiving, processing or storing of any information.

Conditions for the use of electronic communication

13.—(1) The authority may use an electronic communication in connection with applications for, and awards of, support under this scheme.

(2) A person other than the authority may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Chief Executive of the authority.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any application or notice delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the authority any information.

(5) The third condition is that any information sent by means of an electronic communication is in a form supplied for the purposes of this Part of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Chief Executive of the authority.

(7) Where the person uses any method other than the method approved of submitting any information, that information is to be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Chief Executive of the authority for the purposes of this Part of this Schedule.

Use of intermediaries

14. The authority may use intermediaries in connection with—

- (a) the delivery of any information by means of an electronic communication; and

(b) the authentication or security of anything transmitted by such means, and may require other persons to use intermediaries in connection with those matters.

Effect of delivering information by means of electronic communication

15.—(1) Any information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of this scheme, on the day the conditions imposed—

- (a) by this Part; and
- (b) by or under an enactment,

are satisfied.

(2) The authority may determine that any information is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information must not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

Proof of identity of sender or recipient of information

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

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

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

Proof of delivery of information

17.—(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any information this must be presumed to have been the case where—

- (a) any such information has been delivered to the relevant authority, if the delivery of that information has been recorded on an official computer system; or
- (b) any such information has been delivered by the relevant authority, if the delivery of that information has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such information, this must be presumed not to be the case, if that information delivered to the relevant authority has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such information sent by means of an electronic communication has been received, the time and date of receipt must be presumed to be that recorded on an official computer system.

Proof of content of information

18. If it is necessary to prove, for the purpose of any legal proceedings, the content of any information sent by means of an electronic communication, the content must be presumed to be that recorded on an official computer system.

SCHEDULE 2

Applicable amounts: pensioners

PART 1

Personal allowances

Personal allowance

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

<i>Column (1)</i> <i>Person, couple or polygamous marriage</i>	<i>Column (2)</i> <i>Amount</i>
(1) Single applicant or lone parent— (1) (a) aged under 65; (b) aged 65 or over.	(1) (a) £145.40; (b) £163.50.
(2) Couple— (a) both members aged under 65; (b) one or both members aged 65 or over.	(2) (a) £222.05; (b) £244.95.
(3) If the applicant is a member of a polygamous marriage and none of the members of the marriage has attained the age of 65— (a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant.	(3) (a) £222.05; (b) £76.65
(4) If the applicant is a member of a polygamous marriage and one or more members of the marriage are aged 65 or over – (a) for the applicant and the other party to the marriage; (b) for each additional spouse who is a member of the same household as the applicant	 (a) £244.95 (b) £81.45

Child or young person amounts

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

<i>Column (1)</i> <i>Child or young person</i>	<i>Column (2)</i> <i>Amount</i>
Person in respect of the period— (a) beginning on that person's date of birth and ending on the day preceding the first Monday in September following that person's sixteenth birthday; (b) beginning on the first Monday in September following that person's sixteenth birthday and ending on the day preceding that person's twentieth birthday.	(a) £65.22; (b) £65.22.
(2) In column (1) of the table "the first Monday in September" means the Monday which first occurs in the month of September in any year.	

PART 2

Family premium

Family premium

3. The amount for the purposes of paragraph 25(1)(c) in respect of a family of which at least one member is a child or young person is £17.40.

PART 3

Premiums

4. The premiums specified in Part 4 are, for the purposes of paragraph 25(1)(d), applicable to an applicant who satisfies the condition specified in this Part in respect of that premium.

5.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979 applies, any period during which, apart from the provision of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act

1973, or by Skills Development Scotland, Scottish Enterprise or Highland and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 9, a person is to be treated as being in receipt of a carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 or an AFIP.

Severe disability premium

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

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

- (a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—
 - (i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; and
 - (ii) subject to sub-paragraph (6), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and
 - (iii) no person is entitled to, and in receipt of, a carer's allowance in respect of caring for him;
- (b) in the case of an applicant who has a partner—
 - (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP;
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, each other member of that marriage is in receipt of such an allowance; and
 - (iii) subject to sub-paragraph (6), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing,

and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of the couple or, if he is a member of a polygamous marriage, for one or more but not all the members of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any of the members of the marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of sub-paragraph (4), that partner is to be treated for the purposes of sub-paragraph (2) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (3), a person is blind if he is registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a

register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994.

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

(6) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment paid at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012, or an AFIP; or
- (b) a person who is blind or is treated as blind within the meaning of sub-paragraphs (4) and (5).

(7) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being in receipt of the daily living component of personal independence payment paid at the rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012 if he would, but for his being a patient for a period exceeding 28 days, be so in receipt, notwithstanding section 86 of that Act and regulations made thereunder;
- (c) as being in receipt of an AFIP if he would be so in receipt but for a suspension of payment in accordance with any terms of the armed and reserve forces compensation scheme which allow for a suspension because a person is undergoing medical treatment in a hospital or similar institution;
- (d) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(8) For the purposes of sub-paragraph (2)(a)(iii) and (b)—

- (a) no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid; and
- (b) references to a person being in receipt of a carer's allowance include reference to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(186) (loss of benefit).

Enhanced disability premium

7.—(1) The condition is that—

- (a) the care component of disability living allowance is, or would, but for a suspension of benefit in accordance with regulations under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation, be payable at the highest rate prescribed under section 73(2) of that Act; or
- (b) (as the case may be) the daily living component of personal independence payment is, or would, but for a suspension of benefit in accordance with regulations under section 86 of the Welfare Reform Act 2012, be payable at the enhanced rate prescribed in accordance with section 78(2) of that Act,

in respect of a child or young person who is a member of the applicant's family.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a

child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

Disabled child premium

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

- (a) is in receipt of disability living allowance, personal independence payment or is no longer in receipt of such allowance or payment because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind within the meaning of paragraph 6(4) or treated as blind in accordance with paragraph 6(5); or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

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

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

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

this paragraph is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

(3) The relevant date for the purposes of sub-paragraph (2) is—

- (a) in a case within sub-paragraph (2)(a), the Sunday following the death of the person in respect of whose care the carer's allowance has been awarded (or beginning with the date of death if the date occurred on a Sunday);
- (b) in a case within sub-paragraph (2)(b), the date on which that person who was entitled to a carer's allowance ceases to be entitled to it.

(4) For the purposes of this paragraph, a person is to be treated as being entitled to and in receipt of a carer's allowance for any period not covered by an award but in respect of which a payment is made in lieu of an award.

Persons in receipt of concessionary payments

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

Person in receipt of benefit

11. For the purposes of this Part of this Schedule, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.

PART 4

Amounts of premium specified in Part 3

12.—(1) Severe Disability Premium—

<i>Provision</i>	<i>Amount</i>
<p>12.—(1) Severe Disability Premium— (a) where the applicant satisfies the condition in paragraph 6(2)(a); (b) where the applicant satisfies the condition in paragraph 6(2)(b)— (i) in a case where there is someone in receipt of a carer's allowance or if he or any partner satisfies that condition only by virtue of paragraph 6(7); (ii) in a case where there is no-one in receipt of such an allowance.</p>	<p>(1) (a) £59.50; (b) (i) £59.50; (ii) £119.00.</p>
<p>(2) Enhanced disability premium.</p>	<p>(2) £23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 7 are satisfied.</p>
<p>(3) Disabled Child Premium.</p>	<p>(3) £57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 8 is satisfied</p>
<p>(4) Carer Premium.</p>	<p>(4) £33.30 in respect of each person who satisfies the condition specified in paragraph 9.</p>

SCHEDULE 3

Applicable amounts: persons who are not pensioners

PART 1

Personal allowances

1. The amounts specified in column (2) below in respect of each person or couple specified in column (1) are the amounts specified for the purposes of paragraphs 26(1)(a) and 27(1)(a) and (b)—

<i>Column (1) Person or couple</i>	<i>Column (2) Amount</i>
<p>(1) A single applicant who—</p> <p>(a) is entitled to main phase employment and support allowance;</p> <p>(b) is aged not less than 25;</p> <p>(c) is aged not less than 18 but less than 25.</p> <p>(2) Lone parent.</p> <p>(3) Couple.</p>	<p>(1)</p> <p>(a) £71.70;</p> <p>(b) £71.70;</p> <p>(c) £56.80.</p> <p>(2) £71.70.</p> <p>(3) £112.55.</p>
<p>2. For the purposes of paragraph 1 of this Schedule an applicant is entitled to main phase employment and support allowance if—</p> <p>(a) paragraph 18 of this Schedule is satisfied in relation to the applicant; or</p> <p>(b) the applicant is entitled to a converted employment and support allowance.</p> <p>3.—(1) The amounts specified in column (2) below in respect of each person specified in column (1) shall, for the relevant period specified in column (1), be the amounts specified for the purposes of paragraphs 25(1)(b) and 26(1)(c) of this scheme—</p>	
<i>Column (1) Child or Young person</i>	<i>Column (2) Amount</i>
<p>Person in respect of the period—</p> <p>(a) beginning on that person’s date of birth and ending on the day preceding the first Monday in September following that person’s sixteenth birthday;</p> <p>(b) beginning on the first Monday in September following that person’s sixteenth birthday and ending on the day preceding that person’s twentieth birthday.</p>	<p>£65.22</p> <p>£65.22</p>
<p>(2) In column (1) of the table in sub-paragraph (1), “the first Monday in September” means the Monday which first occurs in the month of September in any year.</p>	

PART 2

Family premium

4.—(1) The amount for the purposes of paragraphs 26(1)(c) and 27(1)(d) in respect of a family of which at least one member is a child or young person is—

- (a) where the applicant is a lone parent to whom sub-paragraph (2) applies, £22.20;
- (b) in any other case, £17.40.

(2) The amount in sub-paragraph (1)(a) is applicable to a lone parent—

- (a) who was entitled to council tax benefit on 5th April 1998 and whose applicable amount on that date included the amount applicable under paragraph 3(1)(a) of Schedule 1 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as in force on that date; or
- (b) on becoming entitled to council tax benefit where that lone parent—
 - (i) had been treated as entitled to that benefit in accordance with sub-paragraph (3) as at the day before the date of claim for that benefit; and
 - (ii) was entitled to housing benefit as at the date of claim for council tax benefit or would have been entitled to housing benefit as at that date had that day not fallen during a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006,

and in respect of whom, all of the conditions specified in sub-paragraph (3) have continued to apply.

(3) The conditions specified for the purposes of sub-paragraph (2) are that, in respect of the period commencing on 6th April 1998—

- (a) the applicant has not ceased to be entitled, or has not ceased to be treated as entitled, to
 - (i) council tax benefit (in relation to the period prior to 1st April 2013), and
 - (ii) a support under this scheme (in relation to the period commencing on 1st April 2013);
- (b) the applicant has not ceased to be a lone parent;
- (c) where the applicant was entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or income-related employment and support allowance or a combination of those benefits;
- (d) where the applicant was not entitled to income support or to an income-based jobseeker's allowance on 5th April 1998, he has not become entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance; and
- (e) a premium under paragraph 9 or a component under paragraph 21 or 22 has not become applicable to the applicant.

(4) For the purposes of sub-paragraphs (2)(b)(i) and (3)(a), an applicant is to be treated as entitled to council tax benefit during any period where he was not, or had ceased to be, so entitled and—

- (a) throughout that period, he had been awarded housing benefit and his applicable amount included the amount applicable under paragraph 3(1)(a) of Schedule 3 to the Housing Benefit Regulations 2006 (lone parent rate of family premium); or
- (b) he would have been awarded housing benefit during that period had that period not been a rent free period as defined in regulation 81 of the Housing Benefit Regulations 2006 and his applicable amount throughout that period would have included the amount applicable

under paragraph 3(1)(a) of Schedule 3 to those Regulations.

PART 3

Premiums

5. Except as provided in paragraph 6, the premiums specified in Part 4 are, for the purposes of paragraphs 26(1)(d) and 27(1)(e) (premiums), applicable to an applicant who satisfies the condition specified in paragraphs 9 to 14 in respect of that premium.

6. Subject to paragraph 7, where an applicant satisfies the conditions in respect of more than one premium in this Part of this Schedule, only one premium is applicable to him and, if they are different amounts, the higher or highest amount applies.

7. The following premiums, namely—

- (a) a severe disability premium to which paragraph 11 applies;
- (b) an enhanced disability premium to which paragraph 12 applies;
- (c) a disabled child premium to which paragraph 13 applies; and (d) a carer premium to which paragraph 14 applies,

may be applicable in addition to any other premium which may apply under this Schedule.

8.—(1) Subject to sub-paragraph (2), for the purposes of this Part of this Schedule, once a premium is applicable to an applicant under this Part, a person is to be treated as being in receipt of any benefit for—

- (a) in the case of a benefit to which the Social Security (Overlapping Benefits) Regulations 1979(187) applies, any period during which, apart from the provisions of those Regulations, he would be in receipt of that benefit; and
- (b) any period spent by a person in undertaking a course of training or instruction provided or approved by the Secretary of State under section 2 of the Employment and Training Act 1973 or by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990 for any period during which he is in receipt of a training allowance.

(2) For the purposes of the carer premium under paragraph 14, a person is to be treated as being in receipt of carer's allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable under Part 4 of the Welfare Reform Act 2012.

Disability premium

9. The condition is that—

- (a) where the applicant is a single applicant or a lone parent, he has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10 is satisfied; or
- (b) where the applicant has a partner, either—
 - (i) the applicant has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) or (b) is satisfied by him; or
 - (ii) his partner has not attained the qualifying age for state pension credit and the additional condition specified in paragraph 10(1)(a) is satisfied by his partner.

Additional condition for the disability premium

10.—(1) Subject to sub-paragraph (2) and paragraph 8, the additional condition referred to in paragraph 9 is that either—

- (a) the applicant or, as the case may be, his partner—
 - (i) is in receipt of one or more of the following benefits: attendance allowance, disability living allowance, personal independence payment, an AFIP, the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**188**), mobility supplement, long-term incapacity benefit under Part 2 of the SSCBA or severe disablement allowance under Part 3 of that Act but, in the case of long-term incapacity benefit or severe disablement allowance, only where it is paid in respect of him; or
 - (ii) was in receipt of long-term incapacity benefit under Part 2 of the SSCBA when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and the applicant remained continuously entitled to—
 - (aa) council tax benefit (in relation to the period prior to 1st April 2013, and
 - (bb) support under this scheme (in relation to the period commencing on 1st April 2013), andif the long-term incapacity benefit was payable to his partner, the partner is still a member of the family; or
 - (iii) was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 113(2) of the SSCBA or otherwise abated as a consequence of the applicant or his partner becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
 - (iv) was in receipt of personal independence payment, but payment of that benefit has been suspended in accordance with section 86 of the Welfare Reform Act 2012 as a consequence of the applicant becoming a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges); or
 - (v) was in receipt of an AFIP, but payment has been suspended in accordance with any terms of the armed and reserve forces compensation scheme which allow for suspension because a person is undergoing medical treatment in a hospital or similar institution; or
 - (vi) he has an invalid carriage or other vehicle provided to him by the Secretary of State or a clinical commissioning group under paragraph 9 of Schedule 1 to the National Health Service Act 2006(**189**) or under section 46 of the National Health Service (Scotland) Act 1978(**190**) 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(**191**); or
 - (vii) is blind and in consequence registered in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence he is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (b) the applicant—
 - (i) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work); and
 - (ii) has been incapable, or has been treated as incapable, of work for a continuous period of not less than—
 - (aa) in the case of an applicant who is terminally ill within the meaning of section

30B(4) of the SSCBA, 196 days;

(bb) in any other case, 364 days.

(2) For the purposes of sub-paragraph (1)(a)(vii), a person who has ceased to be registered as blind on regaining his eyesight is nevertheless to be treated as blind and as satisfying the additional condition set out in that sub-paragraph for a period of 28 weeks following the date on which he ceased to be so registered.

(3) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, if he then ceases, for a period of 8 weeks or less, to be treated as incapable of work or to be incapable of work he is, on again becoming so incapable of work, immediately thereafter to be treated as satisfying the condition in sub-paragraph (1)(b).

(4) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to an applicant by virtue of his satisfying the additional condition specified in that provision, he is to continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 or for any period during which he is in receipt of a training allowance.

(5) For the purposes of sub-paragraph (1)(b), where any two or more periods of incapacity are separated by a break of not more than 56 days, those periods are to be treated as one continuous period.

(6) For the purposes of this paragraph, a reference to a person who is or was in receipt of long-term incapacity benefit includes a person who is or was in receipt of short-term incapacity benefit

at a rate equal to the long-term rate by virtue of section 30B(4)(a) of the Act (short-term incapacity benefit for a person who is terminally ill), or who would be or would have been in receipt of short-term incapacity benefit at such a rate but for the fact that the rate of short-term incapacity benefit already payable to him is or was equal to or greater than the long-term rate.

(7) In the case of an applicant who is a welfare to work beneficiary (a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies, and who again becomes incapable of work for the purposes of Part 12A of the SSCBA)—

(a) the reference to a period of 8 weeks in sub-paragraph (3); and

(b) the reference to a period of 56 days in sub-paragraph (5),

in each case is to be treated as a reference to a period of 104 weeks.

(8) The applicant is not entitled to the disability premium if he has, or is treated as having, limited capability for work.

Severe disability premium

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

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

(a) in the case of a single applicant, a lone parent or an applicant who is treated as having no partner in consequence of sub-paragraph (3)—

(i) he is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and

(ii) subject to sub-paragraph (4), he has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing; and

(iii) no person is entitled to, and in receipt of, a carer's allowance under section 70 of the SSCBA in respect of caring for him;

- (b) in the case of an applicant who has a partner—
- (i) the applicant is in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP; and
 - (ii) his partner is also in receipt of such an allowance or, if he is a member of a polygamous marriage, all the partners of that marriage are in receipt of such an allowance; and
 - (iii) subject to sub-paragraph (4), the applicant has no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and either a person is entitled to and in receipt of a carer's allowance in respect of caring for only one of a couple or, in the case of a polygamous marriage, for one or more but not all the partners of the marriage, or as the case may be, no person is entitled to and in receipt of such an allowance in respect of caring for either member of a couple or any partner of a polygamous marriage.

(3) Where an applicant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2), that partner is to be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the applicant.

(4) For the purposes of sub-paragraph (2)(a)(ii) and (2)(b)(iii) no account is to be taken of—

- (a) a person receiving attendance allowance, or disability living allowance by virtue of the care component at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate prescribed in accordance with Part 4 of the Welfare Reform Act 2012; or
- (b) a person who is blind or is treated as blind within the meaning of paragraph 10(1)(a)(v) and (2).

(5) For the purposes of sub-paragraph (2)(b) a person is to be treated—

- (a) as being in receipt of attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the SSCBA, or the daily living component of personal independence payment payable at either rate under Part 4 of the Welfare Reform Act 2012, or an AFIP if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) as being entitled to and in receipt of a carer's allowance if he would, but for the person for whom he was caring being a patient in hospital for a period exceeding 28 days, be so entitled and in receipt.

(6) For the purposes of sub-paragraph (2)(a)(iii) and (2)(b), no account is to be taken of an award of carer's allowance to the extent that payment of such an award is back-dated for a period before the date on which the award is first paid.

(7) In sub-paragraph (2)(a)(iii) and (b), references to a person being in receipt of a carer's allowance include references to a person who would have been in receipt of that allowance but for the application of a restriction under section 6B or 7 of the Social Security Fraud Act 2001(192) (loss of benefit provisions).

Enhanced disability premium

12.—(1) Subject to sub-paragraph (2), the condition is that—

- (a) the Secretary of State has decided that the applicant has, or is to be treated as having, limited capability for work-related activity; or
- (b) the care component of disability living allowance is, or would be payable at the highest rate prescribed under section 72(3) of the SSCBA, but for a suspension of benefit in

accordance with regulations made under section 113(2) of the SSCBA or but for an abatement as a consequence of hospitalisation be payable at the highest rate prescribed under section 72(3) of the SSCBA in respect of—

- (i) the applicant; or
 - (ii) a member of the applicant's family,
who has not attained the qualifying age for state pension credit;
- (c) the daily living component of personal independence payment is, or would be payable at either rate under Part 4 of the Welfare Reform Act 2012, but for a suspension of benefit in accordance with section 86 of the Welfare Reform Act 2012 in respect of—
- (i) the applicant; or
 - (ii) a member of the applicant's family,
who has not attained the qualifying age for state pension credit.

(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the applicant or partner is entitled to child benefit in respect of that person under section 145A of the SSCBA (entitlement after death of child or qualifying young person).

(3) The condition is not satisfied if the person to whom sub-paragraph (1) refers is—

- (a) an applicant who—
 - (i) is not a member of a couple or a polygamous marriage; and
 - (ii) is a patient within the meaning of paragraph 58(11)(i) (treatment of child care charges) and has been for a period of more than 52 weeks; or
- (b) a member of a couple or a polygamous marriage where each member is a patient within the meaning of paragraph 58(11)(i) and has been for a period of more than 52 weeks.

Disabled child premium

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

- (a) is in receipt of disability living allowance or personal independence payment or is no longer in receipt of such allowance because he is a patient, provided that the child or young person continues to be a member of the family; or
- (b) is blind or treated as blind within the meaning of paragraph 10; or
- (c) is a child or young person in respect of whom section 145A of the SSCBA (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the applicant's applicable amount immediately before the death of that child or young person, or ceased to be included in the applicant's applicable amount because of that child or young person's death.

Carer premium

14.—(1) The condition is that the applicant or his partner is, or both of them are, entitled to a carer's allowance under section 70 of the SSCBA.

(2) Where a carer premium is awarded but—

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

the condition for the award of the premium is to be treated as satisfied for a period of eight weeks from the relevant date specified in sub-paragraph (3).

(3) The relevant date for the purposes of sub-paragraph (2) is—

(a) where sub-paragraph (2)(a) applies, the Sunday following the death of the person in respect of whose care a carer's allowance has been awarded or the date of death if the death occurred on a Sunday;

(b) in any other case, the date on which the person who has been entitled to a carer's allowance ceases to be entitled to that allowance.

(4) Where a person who has been entitled to a carer's allowance ceases to be entitled to that allowance and makes an application for support, the condition for the award of the carer premium is to be treated as satisfied for a period of eight weeks from the date on which—

(a) the person in respect of whose care the carer's allowance has been awarded dies; or

(b) in any other case, the person who has been entitled to a carer's allowance ceased to be entitled to that allowance.

Persons in receipt of concessionary payments

15. For the purpose of determining whether a premium is applicable to a person under paragraphs 10 to 14, any concessionary payment made to compensate that person for the non-payment of any benefit mentioned in those paragraphs is to be treated as if it were a payment of that benefit.

Persons in receipt of benefit for another

16. For the purposes of this Part of this Schedule, a person is to be regarded as being in receipt of any benefit if, and only if, it is paid in respect of him and is to be so regarded only for any period in respect of which that benefit is paid.

PART 4

Amounts of Premiums Specified in Part 3

17.—(1) Disability Premium—

<i>Premium</i>	<i>Amount</i>
<p>17.—(1) Disability Premium— (a) where the applicant satisfies the condition in paragraph 9(a);</p> <p>(b) where the applicant satisfies the condition in paragraph 9(b).</p>	<p>(1) (a) £31.00;</p> <p>(b) £44.20.</p>
<p>(2) Severe Disability Premium— (a) where the applicant satisfies the condition in paragraph 11(2)(a);</p> <p>(b) where the applicant satisfies the condition in paragraph 11(2)(b)— (i) in a case where there is someone in receipt of a carer’s allowance or if he or any partner satisfies that condition only by virtue of paragraph 11(5);</p> <p>(ii) in a case where there is no-one in receipt of such an allowance.</p>	<p>(2) (a) £59.50;</p> <p>(b) (i) £59.50;</p> <p>(ii) £119.00.</p>
<p>(3) Disabled Child Premium.</p>	<p>(3) £57.89 in respect of each child or young person in respect of whom the condition specified in paragraph 13 of Part 3 of this Schedule is satisfied.</p>
<p>(4) Carer Premium.</p>	<p>(4) £33.30 in respect of each person who satisfies the condition specified in paragraph 14.</p>
<p>(5) Enhanced disability premium</p>	<p>(5) (a) £23.45 in respect of each child or young person in respect of whom the conditions specified in paragraph 12 are satisfied; (b) £15.15 in respect of each person who is neither— (i) a child or young person; nor (ii) a member of a couple or a polygamous marriage, in respect of whom the conditions specified in paragraph 12 are satisfied; (c) £21.75 where the applicant is a member of a couple or a polygamous marriage and the conditions specified in paragraph 12 are satisfied in respect of a member of that couple or polygamous marriage.</p>

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PART 5

The components

18. Subject to paragraph 20 the applicant is entitled to one, but not both, of the components in paragraph 21 or 22 if—

- (a) the applicant or the applicant's partner has made a claim for employment and support allowance;
- (b) the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work or limited capability for work-related activity; and
- (c) either—
 - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work related activity component arises does not apply) applies.

19. Subject to paragraph 20, the applicant is entitled to one, but not both, of the components in paragraphs 21 and 22 if the applicant or his partner is entitled to a converted employment and support allowance.

20.—(1) The applicant has no entitlement under paragraph 21 or 22 if the applicant is entitled to the disability premium under paragraphs 9 and 10.

(2) Where the applicant and the applicant's partner each satisfies paragraph 21 or 22, the component to be included in the applicant's applicable amount is that which relates to the applicant.

The work-related activity component

21. The applicant is entitled to the work-related activity component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work.

The support component

22. The applicant is entitled to the support component if the Secretary of State has decided that the applicant or the applicant's partner has, or is to be treated as having, limited capability for work-related activity.

PART 6

Amount of Components

23. The amount of the work-related activity component is £28.45.

24. The amount of the support component is £34.80.

PART 7

Transitional Addition

25.—(1) The applicant is entitled to the transitional addition calculated in accordance with

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paragraph 28 where the applicant or the applicant's partner ("the relevant person")—

- (a) is entitled to a converted employment and support allowance; or
- (b) is appealing a conversion decision as described in regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008 and—
 - (i) is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2008; and
 - (ii) is not in receipt of an income-related employment and support allowance, unless the amount of the transitional addition calculated in accordance with paragraph 28 would be nil.

(2) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the support of the transitional addition to nil in accordance with paragraph 29; (b) the termination of the applicant's award of support under this scheme;
- (c) the relevant person ceasing to meet the requirements of sub-paragraph (1)(a) or (b), as the case may be;
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance, or income support;
- (e) 5th April 2020.

26.—(1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the termination of the applicant's award of support, under—
 - (i) paragraph 25(2)(b);
 - (ii) sub-paragraph (3)(b); or
 - (iii) paragraph 27(3)(b);
- (b) within 12 weeks of that termination but before 5th April 2020 the applicant again becomes entitled to support under this scheme;
- (c) in the support week in which the applicant again becomes entitled to support under this scheme the relevant person is entitled to an employment and support allowance which is not income-related; and
- (d) at the date on which the applicant again becomes entitled to support under this scheme, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day on which the applicant again becomes entitled to support under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the support of the transitional addition to nil in accordance with paragraph 29; (b) the termination of the applicant's award of support under this scheme;

- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(c);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

27.—(1) This paragraph applies where—

- (a) the applicant's entitlement to a transitional addition ends, by virtue of the relevant person ceasing to be entitled to an employment and support allowance, under—
 - (i) paragraph 25(2)(c);
 - (ii) paragraph 26(3)(c); or
 - (iii) sub-paragraph (3)(c);
- (b) before 5th April 2020 the relevant person again becomes entitled to an employment and support allowance which is not income-related;
- (c) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related regulation 145(1) of the Employment and Support Allowance Regulations 2008 applies to the relevant person; and
- (d) at the date on which the relevant person again becomes entitled to an employment support allowance which is not income-related, neither the applicant nor the applicant's partner is entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support.

(2) Where this paragraph applies, the applicant is entitled, with effect from the day that the relevant person's entitlement to employment and support allowance takes effect for the purposes of support under this scheme, to a transitional addition of the amount of the transitional addition that would have applied had the applicant's entitlement to a transitional addition not ended (but taking account of the effect which any intervening change of circumstances would have had by virtue of paragraph 29), unless the amount of the transitional addition would be nil.

(3) The applicant's entitlement to a transitional addition by virtue of this paragraph ends on any of the following—

- (a) the support of the transitional addition to nil in accordance with paragraph 29; (b) the termination of the applicant's award of support under this scheme;
- (c) the relevant person no longer being entitled to the employment and support allowance referred to in sub-paragraph (1)(b);
- (d) the applicant or the applicant's partner becoming entitled to an income-related employment and support allowance, an income-based jobseeker's allowance or income support;
- (e) 5th April 2020.

PART 8

Amount of Transitional Addition

28.—(1) Subject to paragraph 29, the amount of the transitional addition is the amount by which Amount A exceeds Amount B.

(2) Where a conversion decision as described in regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 ("the 2010 Regulations") is made in respect of the relevant person—

- (a) Amount A is the basic amount that would have applied on the day that decision took

- effect had that decision not been made; and
- (b) Amount B is the basic amount that applied on that day as a result of that decision.

(3) Where the relevant person is appealing a conversion decision as described in regulation 5(2)(b) of the 2010 Regulations and is treated as having limited capability for work by virtue of regulation 30 of the Employment and Support Allowance Regulations 2008 as modified by the 2010 Regulations—

- (a) Amount A is the basic amount that would have applied on the day the relevant person was first treated as having limited capability for work if the relevant person had not been so treated; and
- (b) Amount B is the basic amount that applied on that day as a result of the relevant person being so treated.

(4) In this paragraph and paragraph 29, “basic amount” means the aggregate of such amounts as may apply in the applicant’s case in accordance with paragraph 26(1)(a) to (e) or paragraph 27(1)(a) to (f) (applicable amounts).

29.—(1) Subject to sub-paragraph (2), where there is a change of circumstances which leads to an increase in the applicant’s basic amount, the transitional addition that applies immediately before the change of circumstances must be reduced by the amount by which Amount C exceeds Amount D.

(2) If Amount C exceeds Amount D by more than the amount of the transitional addition that applies immediately before the change of circumstances, that transitional addition must be reduced to nil.

- (3) Amount C is the basic amount that applies as a result of the increase.
- (4) Amount D is the basic amount that applied immediately before the increase.

SCHEDULE 4

Amount of alternative maximum council tax support: pensioners

1.—(1) Subject to paragraphs 2 and 3, the alternative maximum council tax support in respect of a day for the purpose of paragraph 31 (alternative maximum council tax support: pensioners and persons who are not pensioners) is determined in accordance with the following Table and in this Table—

- (a) “second adult” means any person or persons residing with the applicant to whom paragraph 15(2) (class C) or 18(2) (class F) (as the case may be) applies; and
- (b) “persons to whom paragraph 75(1) of this scheme applies” includes any person to whom that paragraph would apply were they, and their partner if they had one, below the qualifying age for state pension credit.

(2) In this Schedule “council tax due in respect of that day” means the council tax payable under section 10 of the 1992 Act less—

- (a) any support made in consequence of any enactment in, or under, the 1992 Act (other than support under this scheme); and
- (b) in a case to which sub-paragraph (c) in column (1) of the table below applies, the amount of any discount which may be appropriate to the dwelling under the 1992 Act.
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<i>(1)</i> <i>Second adult</i>	<i>(2)</i> <i>Alternative maximum council tax reduction</i>
<p>(a) Where the second adult or all second adults are in receipt of income support, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;</p> <p>(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—</p> <p>(b)</p> <p>(i) is less than £183.00 per week;</p> <p>(ii) is not less than £183.00 per week but less than £239.00 per week;</p> <p>(c) where the dwelling would be wholly occupied by one or more persons to whom paragraph 71(1) of this scheme applies but for the presence of one or more second adults who are in receipt of income support, state pension credit, an income-related employment and support allowance or are persons on an income-based jobseeker's allowance.</p>	<p>(a) 25 per cent of the council tax due in respect of that day;</p> <p>(b)(i) 15 per cent of the council tax due in respect of that day;</p> <p>(ii) 7.5 per cent of the council tax due in respect of that day;</p> <p>(c) 100 per cent of the council tax due in respect of that day.</p>

2. In determining a second adult's gross income for the purposes of this Schedule, the following must be disregarded from that income—

- (a) any attendance allowance, any disability living allowance, any personal independence payment under Part 4 of the Welfare Reform Act 2012 or an AFIP;
- (b) any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006) which, had his income fallen to be calculated under paragraph 54 (calculation of income other than earnings: persons who are not pensioners), would have been disregarded under paragraph 28 of Schedule 8 (income in kind); and
- (c) any payment which, had his income fallen to be calculated under paragraph 54, would have been disregarded under paragraph 41 of Schedule 8 (payments made under certain trusts and certain other payments).

3. Where there are two or more second adults residing with the applicant for support under this scheme and any such second adult falls to be disregarded for the purposes of discount in accordance with Schedule 1 to the 1992 Act, his income must be disregarded in determining the amount of any alternative maximum council tax support, unless that second adult is a member of a couple and his partner does not fall to be disregarded for the purposes of discount.

SCHEDULE 5

Sums disregarded from applicant's earnings: pensioners

1. Where two or more of paragraphs 2 to 5 apply in any particular case the overall maximum sum which falls to be disregarded in that case under those paragraphs is restricted to—

- (a) £25 in the case of a lone parent;
- (b) £20 in any other case.

2. In a case where an applicant is a lone parent, £25 of earnings.

3.—(1) In a case of earnings from any employment or employments to which sub-paragraph (2) applies, £20.

(2) This paragraph applies to employment—

- (a) as a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005(193)) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) as an auxiliary coastguard in respect of coast rescue activities;
- (d) in the manning or launching of a lifeboat if the employment is part-time;
- (e) as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001.

(3) If—

- (a) any of the earnings of the applicant or, if he has a partner, his partner, or both of them, are disregarded under sub-paragraph (1); and

(b) either of them has, or both of them have, other earnings, so much of those other earnings as would not, in the aggregate with the earnings disregarded under that sub-paragraph, exceed £20.

4.—(1) If the applicant or, if he has a partner, his partner is a carer, or both are carers, £20 of any earnings received from his or their employment.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

(3) In this paragraph the applicant or his partner is a carer if paragraph 14 of Part 3 of Schedule 3 (amount applicable for carers) is satisfied in respect of him.

5.—(1) £20 is disregarded if the applicant or, if he has a partner, his partner—

- (a) is in receipt of—
 - (i) long-term incapacity benefit under section 30A of the SSCBA;
 - (ii) severe disablement allowance under section 68 of that Act;
 - (iii) attendance allowance under sections 64 of that Act;
 - (iv) disability living allowance;
 - (v) personal independence payment;
 - (vi) an AFIP;
 - (vii) any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983;
 - (viii) the disability element or the severe disability element of working tax credit under Schedule 2 to the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002; or
 - (ix) main phase employment and support allowance; or
- (b) is or are registered as blind in a register compiled by a local authority under section 29 of the National Assistance Act 1948 (welfare services) or, in Scotland, has been certified as blind and in consequence is registered in a register maintained by or on behalf of a council constituted under section 2 of the Local Government (Scotland) Act 1994; or
- (c) is, or is treated as, incapable of work in accordance with the provisions of, and regulations made under, Part 12A of the SSCBA (incapacity for work), and has been

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

- (i) in the case of an applicant who is terminally ill within the meaning of section 30B(4) of the Act, 196 days;
 - (ii) in any other case, 364 days; or
- (d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act 1997 or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
 - (ii) regulation 7 of the Employment and Support Allowance Regulations 2008 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.

(2) Subject to sub-paragraph (3), £20 is disregarded if the applicant or, if he has a partner, his partner has, within a period of 8 weeks ending on the day in respect of which the applicant or his partner attains the qualifying age for state pension credit, had an award of housing benefit or council tax benefit or been in receipt of support under this scheme and—

- (a) £20 was disregarded in respect of earnings taken into account in that award; and
- (b) the person whose earnings qualified for the disregard continues in employment after the termination of that award.

(3) The disregard of £20 specified in sub-paragraph (2) applies so long as there is no break, other than a break which does not exceed 8 weeks, in a person's—

- (a) entitlement to housing benefit; or
- (b) receipt of support under a council tax support scheme; or
- (c) employment,

following the first day in respect of which that benefit is awarded under this scheme.

(4) £20 is the maximum amount which may be disregarded under this paragraph, notwithstanding that, where the applicant has a partner, both the applicant and his partner satisfy the requirements of this paragraph.

6.—(1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 35 (applicant in receipt of guarantee credit: pensioners) does not apply,

the amount specified in sub-paragraph (7) (“the specified amount”).

(2) Where this paragraph applies, paragraphs 1 to 5 and 8 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 2, then paragraph 2 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple (“A”) it does not apply to the other member of that couple (“B”) except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there is also to be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

- (5) This sub-paragraph applies to a person who is—
- (a) in receipt of a contributory employment and support allowance;
 - (b) in receipt of incapacity benefit;
 - (c) in receipt of severe disablement allowance;
 - (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (6) “Exempt work” means work of the kind described in—
- (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be); or
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

7. Any amount or the balance of any amount which would fall to be disregarded under paragraph 18 or 19 of Schedule 6 had the applicant’s income which does not consist of earnings been sufficient to entitle him to the full amount disregarded thereunder.

8. Except where the applicant or his partner qualifies for a £20 disregard under the preceding provisions of this Schedule—

- (a) £5 is to be disregarded if an applicant who has no partner has earnings;
- (b) £10 is to be disregarded if an applicant who has a partner has earnings.

9. Any earnings, other than earnings referred to in paragraph 40(9)(b), derived from employment which ended before the day in respect of which the applicant first satisfies the conditions for entitlement to support under this scheme.

10.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under this Schedule is to be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he has a partner, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—
 - (i) is, or any partner of his is, aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
 - (ii) if he is a member of a couple—
 - (aa) at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
 - (bb) his applicable amount includes a family premium under paragraph 3 of Schedule 2; or

- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
 - (iv) is, or if he has a partner, one of them is, engaged in remunerative work for on average not less than 16 hours per week and paragraph 5(1) above is satisfied in respect of that person.
- (3) The following are the amounts referred to in sub-paragraph (1)—
- (a) any amount disregarded under this Schedule;
 - (b) the amount of child care charges calculated as deductible under paragraph 57(1)(c) (deductions from income of certain child care charges); and
 - (c) £17.10.
- (4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph was a reference to 30 hours.
- 11.** Where a payment of earnings is made in a currency other than Sterling, any banking charge or commission payable in converting to that payment into Sterling.

SCHEDULE 6

Amounts to be disregarded in the calculation of income other than earnings: pensioners

- 1.** In addition to any sum which falls to be disregarded in accordance with paragraphs 2 to 6, the whole of any of the following—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 2 or 3);
 - (b) a war widow's pension or war widower's pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 39(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(194), so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income payment disregarded, exceed £10;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.
- 2.** The whole of any amount included in a pension to which paragraph 1 relates in respect of—
- (a) the applicant's need for constant attendance;
 - (b) the applicant's exceptionally severe disablement.
- 3.** Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of

any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

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

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

6.—(1) Any payment which is—

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

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

7. £15 of any widowed parent’s allowance to which the applicant is entitled under section 39A of the SSCBA.

8. £15 of any widowed mother’s allowance to which the applicant is entitled under section 37 of the SSCBA.

9. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent. of such payments; or
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent. of the excess over £20.

10. If the applicant—

- (a) owns the freehold or leasehold interest in any property or is a tenant of any property; and
- (b) occupies a part of that property; and
- (c) has an agreement with another person allowing that person to occupy another part of that property on payment of rent and—
 - (i) the amount paid by that person is less than £20 per week, the whole of that amount; or
 - (ii) the amount paid is £20 or more per week, £20.

11. Where an applicant receives income under an annuity purchased with a loan, which satisfies the following conditions—

- (a) that the loan was made as part of a scheme under which not less than 90 per cent. of the proceeds of the loan were applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons (in

this paragraph referred to as “the annuitants”) who include the person to whom the loan was made;

- (b) that at the time the loan was made the person to whom it was made or each of the annuitants had attained the age of 65;
- (c) that the loan was secured on a dwelling in Great Britain and the person to whom the loan was made or one of the annuitants owns an estate or interest in that dwelling;
- (d) that the person to whom the loan was made or one of the annuitants occupies the dwelling on which it was secured as his home at the time the interest is paid; and
- (e) that the interest payable on the loan is paid by the person to whom the loan was made or by one of the annuitants,

the amount, calculated on a weekly basis, equal to—

- (i) where, or insofar as, section 369 of the Income and Corporation Taxes Act 1988 (mortgage interest payable under deduction of tax) applies to the payments of interest on the loan, the interest which is payable after deduction of a sum equal to income tax on such payments at the applicable percentage of income tax within the meaning of section 369(1A) of that Act;
- (ii) in any other case, the interest which is payable on the loan without deduction of such a sum.

12.—(1) Any payment, other than a payment to which sub-paragraph (2) applies, made to the applicant by Trustees in exercise of a discretion exercisable by them.

(2) This sub-paragraph applies to payments made to the applicant by Trustees in exercise of a discretion exercisable by them for the purpose of—

- (a) obtaining food, ordinary clothing or footwear or household fuel;
- (b) the payment of rent, council tax or water charges for which that applicant or his partner is liable;
- (c) meeting housing costs of a kind specified in Schedule 2 to the State Pension Credit Regulations 2002.

(3) In a case to which sub-paragraph (2) applies, £20 or—

- (a) if the payment is less than £20, the whole payment;
- (b) if, in the applicant’s case, £10 is disregarded in accordance with paragraph 1(a) to (g), £10 or the whole payment if it is less than £10; or
- (c) if, in the applicant’s case, £15 is disregarded under paragraph 7 or paragraph 8 and—
 - (i) he has no disregard under paragraph 1(a) to (g), £5 or the whole payment if it is less than £5;
 - (ii) he has a disregard under paragraph 1(a) to (g), nil.

(4) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing and footwear used solely for sporting activities.

13. Any increase in pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 paid in respect of a dependent other than the pensioner’s partner.

14. Any payment ordered by a court to be made to the applicant or the applicant’s partner in consequence of any accident, injury or disease suffered by the person or a child of the person to or in respect of whom the payments are made.

15. Periodic payments made to the applicant or the applicant’s partner under an agreement entered into in settlement of a claim made by the applicant or, as the case may be, the applicant’s partner for an injury suffered by him.

16. Any income which is payable outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

17. Any banking charges or commission payable in converting to Sterling payments of income made in a currency other than Sterling.

18. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

19.—(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

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

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

- (a) the weekly amount of the payments; or
- (b) £56.80 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b), whichever is less.

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

(2) For the purposes of sub-paragraph (1), where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

21. Except in a case which falls under paragraph 10 of Schedule 5, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

22. Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 9 does not exceed £10,000, any income actually derived from such capital.

23. Except in the case of income from capital specified in Part 2 of Schedule 9, any actual income from capital.

24. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased

to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999 as in force at that date, the whole of his income.

SCHEDULE 7

Sums disregarded in the calculation of earnings: persons who are not pensioners

1. In the case of an applicant who has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged—

(a) where—

(i) the employment has been terminated because of retirement; and

(ii) on retirement he is entitled to a retirement pension under the Act, or is not so entitled solely because of his failure to satisfy the contribution conditions,

any earnings paid or due to be paid in respect of that employment, but only for a period commencing on the day immediately after the date on which the employment was terminated;

(b) where before the first day of entitlement to support under this scheme the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

(i) any payment of the nature described in—

(aa) paragraph 51(1)(e) (retainer), or

(bb) section 28, 64 or 68 of the Employment Rights Act 1996 (guarantee payments, suspension from work on medical or maternity grounds); and

(ii) any award, sum or payment of the nature described in—

(aa) paragraph 51(1)(g) or (i) (compensation etc. relating to employment), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals),

including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;

(c) where before the first day of entitlement to support under this scheme— (i)

the employment has not been terminated, but

(ii) the applicant is not engaged in remunerative work,

any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in paragraph (b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

2. In the case of an applicant who, before the first day of entitlement to support under this scheme—

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain; and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings paid or due to be paid in respect of that employment except—

(i) where that employment has been terminated, any payment of the nature described in paragraph 1(b)(i) or (ii)(bb);

- (ii) where that employment has not been terminated, any payment or remuneration of the nature described in paragraph 1(b)(i) or (ii)(bb) or paragraph 51(1)(j) (statutory sick pay etc.).

3. In the case of an applicant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment, any earnings derived from that employment except earnings to which paragraph 53(3) and (4) (earnings of self-employed earners) apply.

4.—(1) In a case to which this paragraph applies and paragraph 5 does not apply, £20; but notwithstanding paragraph 33 (calculation of income and capital of members of an applicant's family and of a polygamous marriage) if this paragraph applies to an applicant it does not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £20.

(2) This paragraph applies where the applicant's applicable amount includes an amount by way of the disability premium, severe disability premium, work-related activity component or support component under Schedule 3 (applicable amounts: persons who are not pensioners).

(3) This paragraph applies where—

- (a) the applicant is a member of a couple and his applicable amount includes an amount by way of the disability premium under Schedule 3; and
- (b) he or his partner has not attained the qualifying age for state pension credit and at least one is engaged in employment.

5. In a case where the applicant is a lone parent, £25.

6.—(1) In a case to which neither paragraph 4 nor paragraph 5 applies to the applicant and, subject to sub-paragraph (2), where the applicant's applicable amount includes an amount by way of the carer premium under Schedule 3 (applicable amounts: persons who are not pensioners), £20 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of carer's allowance or treated in accordance with paragraph 14(2) of that Schedule as being in receipt of carer's allowance.

(2) Where the carer premium is awarded in respect of the applicant and of any partner of his, their earnings must for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) must not exceed £20 of the aggregated amount.

7. Where the carer premium is awarded in respect of an applicant who is a member of a couple and whose earnings are less than £20, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 9(1), so much of the other member's earnings as would not when aggregated with the amount disregarded under paragraph 6 exceed £20;
- (b) other than one specified in paragraph 9(1), so much of the other member's earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 5 exceed £20.

8. In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant and he is one of a couple and a member of that couple is in employment, £10; but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except where, and to the extent that, the earnings of the applicant which are to be disregarded under this paragraph are less than £10.

9.—(1) In a case where paragraphs 4, 6, 7 and 9 do not apply to the applicant, £20 of earnings derived from one or more employments as—

- (a) a part-time fire-fighter employed by a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(195) or a scheme to which

section

4 of that Act applies;

- (b) a part-time fire-fighter employed by a fire and rescue authority (as defined in section 1 of the Fire (Scotland) Act 2005) or a joint fire and rescue board constituted by an amalgamation scheme made under section 2(1) of that Act;
- (c) an auxiliary coastguard in respect of coast rescue activities;
- (d) a person engaged part-time in the manning or launching of a life boat;
- (e) a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001;

but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if this paragraph applies to an applicant it must not apply to his partner except to the extent specified in sub-paragraph (2).

(2) If the applicant's partner is engaged in employment—

- (a) specified in sub-paragraph (1), so much of his earnings as would not in aggregate with the amount of the applicant's earnings disregarded under this paragraph exceed £20;
- (b) other than one specified in sub-paragraph (1), so much of his earnings from that employment up to £10 as would not in aggregate with the applicant's earnings disregarded under this paragraph exceed £20.

10. Where the applicant is engaged in one or more employments specified in paragraph 9(1), but his earnings derived from such employments are less than £20 in any week and he is also engaged in any other employment, so much of his earnings from that other employment, up to £5 if he is a single applicant, or up to £10 if he has a partner, as would not in aggregate with the amount of his earnings disregarded under paragraph 9 exceed £20.

11. In a case to which none of the paragraphs 4 to 10 applies, £5.

12.—(1) Where—

- (a) the applicant (or if the applicant is a member of a couple, at least one member of that couple) is a person to whom sub-paragraph (5) applies;
- (b) the Secretary of State is satisfied that that person is undertaking exempt work as defined in sub-paragraph (6); and
- (c) paragraph 14 does not apply,

the amount specified in sub-paragraph (7) ("the specified amount").

(2) Where this paragraph applies, paragraphs 4 to 11 do not apply; but in any case where the applicant is a lone parent, and the specified amount would be less than the amount specified in paragraph 5, then paragraph 5 applies instead of this paragraph.

(3) Notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), if sub-paragraph (1) applies to one member of a couple ("A") it does not apply to the other member of that couple ("B") except to the extent provided in sub-paragraph (4).

(4) Where A's earnings are less than the specified amount, there must also be disregarded so much of B's earnings as would not when aggregated with A's earnings exceed the specified amount; but the amount of B's earnings which may be disregarded under this sub-paragraph is limited to a maximum of £20 unless the Secretary of State is satisfied that B is also undertaking exempt work.

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

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

- (d) being credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975.
- (6) “Exempt work” means work of the kind described in—
 - (a) regulation 45(2), (3) or (4) of the Employment and Support Allowance Regulations 2008; or (as the case may be)
 - (b) regulation 17(2), (3) or (4) of the Social Security (Incapacity for Work) (General) Regulations 1995,

and, in determining for the purposes of this paragraph whether an applicant or a member of a couple is undertaking any type of exempt work, it is immaterial whether that person or their partner is also undertaking other work.

(7) The specified amount is the amount of money from time to time mentioned in any provision referred to in sub-paragraph (6) by virtue of which the work referred to in sub-paragraph (1) is exempt (or, where more than one such provision is relevant and those provisions mention different amounts of money, the highest of those amounts).

13. Any amount or the balance of any amount which would fall to be disregarded under paragraph 23 or 24 of Schedule 8 had the applicant’s income which does not consist of earnings been sufficient to entitle him to the full disregard thereunder.

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

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

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

17. Any earnings of a child or young person.

18.—(1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.

(2) The conditions of this sub-paragraph are that—

- (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or
- (b) the applicant—
 - (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
 - (ii) is a member of a couple and—
 - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
 - (bb) his applicable amount includes a family premium under paragraph 4 of Schedule 3; or
 - (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
 - (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and—
 - (aa) the applicant’s applicable amount includes a disability premium under

paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 3 respectively;

(bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or

(c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

(3) The following are the amounts referred to in sub-paragraph (1)—

(a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12;

(b) the amount of child care charges calculated as deductible under paragraph 57(1)(c); and

(c) £17.10.

(4) The provisions of paragraph 10 (remunerative work) apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

19. In this Schedule "part-time employment" means employment in which the person is engaged on average for less than 16 hours a week.

SCHEDULE 8

Sums disregarded in the calculation of income other than earnings: persons who are not pensioners

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Pilot Scheme.

2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme.

3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme.

4. Any amount paid by way of tax on income which is to be taken into account under regulation 30 (calculation of income other than earnings).

5. Any payment in respect of any expenses incurred or to be incurred by an applicant who is—

(a) engaged by a charitable or voluntary organisation, or

(b) a volunteer,

if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under paragraph 56(5) (notional income: persons who are not pensioners).

6. Any payment in respect of expenses arising out of the applicant's participation in a service user group.

7. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, the whole of his income.

9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act and his partner is on an income-based jobseeker's allowance, the whole of the applicant's income.

10. Where the applicant, or the person who was the partner of the applicant on 31st March 2003, was entitled on that date to income support or an income-based jobseeker's allowance but ceased to be so entitled on or before 5th April 2003 by virtue only of regulation 13 of the Housing Benefit (General) Amendment (No. 3) Regulations 1999(196) as in force at that date, the whole of his income.

11. Any disability living allowance, personal independence payment or an AFIP.

12. Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 11 or 14;
- (b) income support;
- (c) an income-based jobseeker's allowance;
- (d) an income-related employment and support allowance.

13. Any mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983 or any payment intended to compensate for the non-payment of such a supplement.

14. Any attendance allowance.

15. Any payment to the applicant as holder of the Victoria Cross or of the George Cross or any analogous payment.

16.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996 (payment of school expenses; grant of scholarships etc.);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980 (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified

in sub-paragraph (1).

17. Any payment made to the applicant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc.) Regulations 2002.

18.—(1) Any payment made pursuant to section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990(197) except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit, severe disablement allowance or an employment and support allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst an applicant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the 1973 Act and the period of education or training or the scheme, which is supported by that loan, has been completed.

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

19.—(1) Subject to sub-paragraph (2), any of the following payments—

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the applicant;
- (d) a payment under an annuity purchased—
 - (i) pursuant to any agreement or court order to make payments to the applicant; or
 - (ii) from funds derived from a payment made, in consequence of any personal injury to the applicant; or
- (e) a payment (not falling within paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the applicant in consequence of any personal injury to the applicant.

(2) Sub-paragraph (1) does not apply to a payment which is made or due to be made by—

- (a) a former partner of the applicant, or a former partner of any member of the applicant's family; or
- (b) the parent of a child or young person where that child or young person is a member of the applicant's family.

20. Subject to paragraph 40, the whole of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 13 or 14);
- (b) a war widow's pension or war widower's pension;
- (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a pension or payment falling within article 31(1)(a) or (b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, so much of that pension or payment as would not, in aggregate with the amount of any guaranteed income

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payment disregarded, exceed £10;

- (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
- (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in paragraphs (a) to (d) above;
- (g) pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.

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

- (a) widowed mother's allowance paid pursuant to section 37 of the SSCBA;
- (b) widowed parent's allowance paid pursuant to section 39A of the SSCBA.

22.—(1) Any income derived from capital to which the applicant is or is treated under paragraph 70 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraphs 4, 5, 7, 11, 17 or 30 to 33 of Schedule 10.

(2) Income derived from capital disregarded under paragraphs 5, 7 or 30 to 33 of Schedule 10 but only to the extent of—

- (a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or
- (b) any council tax or water charges which the applicant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.

(3) The definition of "water charges" in paragraph 2(1) (interpretation) applies to sub-paragraph (2) of this paragraph with the omission of the words "in so far as such charges are in respect of the dwelling which a person occupies as his home".

23. Where the applicant makes a parental contribution in respect of a student attending a course at an establishment in the United Kingdom or undergoing education in the United Kingdom, which contribution has been assessed for the purposes of calculating—

- (a) under, or pursuant to regulations made under powers conferred by, section 22 of the Teaching and Higher Education Act 1998, that student's award;
- (b) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980, that student's bursary, scholarship, or other allowance under that section or under regulations made in exercise of the powers conferred by section 73 of that Act of 1980, any payment to that student under that section; or
- (c) the student's student loan,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

24.—(1) Where the applicant is the parent of a student aged under 25 in advanced education who either—

- (a) is not in receipt of any award, grant or student loan in respect of that education; or
- (b) is in receipt of an award bestowed by virtue of the Teaching and Higher Education Act 1998, or regulations made thereunder, or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980, or a payment under section 73 of that Act of 1980,

and the applicant makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 23, an amount specified in sub-paragraph (2) in respect of each week during the student's term.

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

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

- (b) the amount by way of a personal allowance for a single applicant under 25 less the weekly amount of any award, bursary, scholarship, allowance or payment referred to in sub-paragraph (1)(b),

whichever is less.

25. Any payment made to the applicant by a child or young person or a non-dependant.

26. Where the applicant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 25 or 27 refers and there is a contractual liability to make payments to the applicant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
- (b) where the aggregate of any such payments is £20 or more per week, £20.

27. Where the applicant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for which such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20, 100 per cent of such payments;
- (b) where the aggregate of any such payments exceeds £20, £20 and 50 per cent of the excess over £20.

28.—(1) Any income in kind, except where paragraph 54(10)(b) (provision of support under section 95 or 98 of the Immigration and Asylum Act 1999 in the calculation of income other than earnings) applies.

(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the applicant which is used by the third party to provide benefits in kind to the applicant.

29. Any income which is payable in a country outside the United Kingdom for such period during which there is a prohibition against the transfer to the United Kingdom of that income.

30.—(1) Any payment made to the applicant in respect of a person who is a member of his family—

- (a) pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance or with a scheme approved by the Scottish Ministers under section 51A of the Adoption (Scotland) Act 1978(198) (schemes for payments of allowances to adopters) or in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or in Scotland section 50 of the Children Act 1975 (payments towards maintenance of children);
- (c) which is a payment made by an authority, as defined in Article 2 of the Children (Northern Ireland) Order 1995, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);

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

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

2002.

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

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

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

- (a) a health authority;
- (b) a local authority but excluding payments of housing benefit made in respect of the person concerned;
- (c) a voluntary organisation;
- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948;
- (e) a primary care trust established under section 16A of the National Health Service Act 1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006; or
- (f) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

33. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or section 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

34.—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the applicant.

- (2) Sub-paragraph (1) applies only where A—
 - (a) was formerly in the applicant’s care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the applicant.

35.—(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments—

- (a) on a loan which is secured on the dwelling which the applicant occupies as his home; or
- (b) under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974(199) or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of Part 3 of the Hire-Purchase Act 1964.

(2) A payment referred to in sub-paragraph (1) is only to be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to—

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- (a) maintain the repayments referred to in sub-paragraph (1)(a) or, as the case may be, (1)(b); and
- (b) meet any amount due by way of premiums on—
 - (i) that policy; or
 - (ii) in a case to which sub-paragraph (1)(a) applies, an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the applicant as his home and which is required as a condition of the loan referred to in sub-paragraph (1)(a).

36. Any payment of income which by virtue of paragraph 64 (income treated as capital: persons who are not pensioners) is to be treated as capital.

37. Any—

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

38. Any payment under Part 10 of the SSCBA (Christmas bonus for pensioners).

39. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

40. The total of an applicant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under paragraph 33(3) (calculation of income and capital of members of applicant's family and of a polygamous marriage) to be disregarded under paragraph 77(2)(b) and paragraph 78(1)(d) (calculation of covenant income where a contribution assessed, covenant income where no grant income or no contribution is assessed), paragraph 81(2) (treatment of student loans), paragraph 82(3) (treatment of payments from access funds) and paragraphs 20 and 21 must in no case exceed £20 per week.

41.—(1) Any payment made under or by any of the Trusts, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation or the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced or, where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
 - (i) to that person's parent or step-parent, or
 - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

(7) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation and the London Bombings Relief Charitable Fund.

42. Any housing benefit.

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

44. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.

45. Any payment in consequence of a reduction of council tax under section 13 of the 1992 Act (reduction of liability for council tax).

46.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service

(Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies).

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

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

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

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

(2) For the purpose of sub-paragraph (1) where more than one maintenance payment falls to be taken into account in any week, all such payments must be aggregated and treated as if they were a single payment.

(3) A payment made by the Secretary of State in lieu of maintenance must, for the purpose of sub-paragraph (1), be treated as a payment of maintenance made by a person specified in sub-paragraph (1).

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

(2) In sub-paragraph (1)—

“child maintenance” means any payment towards the maintenance of a child or young person, including any payment made voluntarily and payments made under—

- (a) the Child Support Act 1991(200);
- (b) the Child Support (Northern Ireland) Order 1991;
- (c) a court order;
- (d) a consent order;
- (e) a maintenance agreement registered for execution in the Books of Council and Session or the sheriff court books;

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

51. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(201) to assist disabled persons to obtain or retain employment despite their disability.

52. Any guardian's allowance.

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

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

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

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

56.—(1) Any payment which is—

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

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

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

58. Except in a case which falls under sub-paragraph (1) of paragraph 18 of Schedule 7, where the applicant is a person who satisfies any of the conditions of sub-paragraph (2) of that paragraph, any amount of working tax credit up to £17.10.

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

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

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

in respect of which such assistance is or was received.

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

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

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

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

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

62. Where the amount of subsistence allowance paid to a person in a support week exceeds the amount of income-based jobseeker’s allowance that person would have received in that support

week had it been payable to him, less 50p, that excess amount.

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

64. Any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001(202).

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

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

66. Any payment of child benefit.

SCHEDULE 9

Capital disregards: pensioners

PART 1

Capital to be disregarded

1. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.

2. Any premises which the applicant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

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

4. Any premises occupied in whole or in part—

- (a) by a person who is a relative of the applicant or his partner as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
- (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

5. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

6. Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner or the dissolution of a civil partnership with his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

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

8. All personal possessions.

9. The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of those assets.

10. The assets of any business owned in whole or in part by the applicant if—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business,

for a period of 26 weeks from the date on which the application for support under this scheme is made or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

11. The surrender value of any policy of life insurance.

12. The value of any funeral plan contract; and for this purpose, “funeral plan contract” means a contract under which—

- (a) the applicant makes one or more payments to another person (“the provider”);
- (b) the provider undertakes to provide, or secure the provision of, a funeral in the United Kingdom for the applicant on his death; and
- (c) the sole purpose of the plan is to provide or secure the provision of a funeral for the applicant on his death.

13. Where an ex-gratia payment has been made by the Secretary of State on or after 1st February 2001 in consequence of the imprisonment or internment of—

- (a) the applicant;
- (b) the applicant’s partner;
- (c) the applicant’s deceased spouse or deceased civil partner; or
- (d) the applicant’s partner’s deceased spouse or deceased civil partner,

by the Japanese during the Second World War, an amount equal to that payment.

14.—(1) Subject to sub-paragraph (2), the amount of any trust payment made to an applicant or an applicant’s partner who is—

- (a) a diagnosed person;
- (b) a diagnosed person’s partner or was a diagnosed person’s partner at the time of the diagnosed person’s death; or
- (c) a parent of a diagnosed person, a person acting in place of the diagnosed person’s parents or a person who was so acting at the date of the diagnosed person’s death.

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;

- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or an applicant's partner who is—

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

(4) Where a payment such as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which the payment is made and ending two years after that date.

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

- (a) being the diagnosed person's partner;
- (b) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home or an independent hospital.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

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

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

during the Second World War.

16.—(1) Any payment made under or by—

- (a) the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, or the London Bombings Relief Charitable Fund (collectively referred to in this paragraph as “the Trusts”); or
- (b) the Independent Living Fund (2006).

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of that person's partner or former partner—

- (a) from whom he is not, or where that person has died was not, estranged or divorced, or

- (b) with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts and which is made to or for the benefit of the person who is suffering from haemophilia or who is a qualifying person.
- (4) Sub-paragraph (3) does not apply if—
 - (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or
 - (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.
- (5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts, where—
 - (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child who is or had been a member of that person's household; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the date of the payment is a child or a student who has not completed his full-time education and has no parent or step-parent, to any person standing in the place of his parent,

but only for a period from the date of the payment until the end of two years from that person's death.
- (6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts, where—
 - (a) that person at the date of his death ("the relevant date") had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child who was or had been a member of his household; and
 - (b) the payment is made either—
 - (i) to that person's parent or step-parent; or
 - (ii) where that person at the relevant date was a child or a student who had not completed his full-time education and had no parent or step-parent, to any person standing in place of his parent,

but only for a period of two years from the relevant date.
- (7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

17.—(1) An amount equal to the amount of any payment made in consequence of any personal injury to the applicant or, if the applicant has a partner, to the partner.

- (2) Where the whole or part of the payment is administered—
 - (a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;
 - (b) in accordance with an order made under Rule 36.14 of the Ordinary Cause Rules 1993 or under Rule 128 of those Rules; or
 - (c) in accordance with the terms of a trust established for the benefit of the applicant or his

partner,
the whole of the amount so administered.

18. Any amount specified in paragraph 19, 20, 21 or 25 for a period of one year beginning with the date of receipt.

19. Amounts paid under a policy of insurance in connection with the loss of or damage to the property occupied by the applicant as his home and to his personal possessions.

20. So much of any amounts paid to the applicant or deposited in the applicant's name for the sole purpose of—

- (a) purchasing premises which the applicant intends to occupy as his home; or
- (b) effecting essential repairs or alterations to the premises occupied or intended to be occupied by the applicant as his home.

21.—(1) Subject to paragraph 22 any amount paid—

- (a) by way of arrears of benefit;
- (b) by way of compensation for the late payment of benefit;
- (c) in lieu of the payment of benefit;
- (d) to rectify, or compensate for, an official error, as defined for the purposes of paragraph 22, being an amount to which that paragraph does not apply;
- (e) by a local authority out of funds provided under either section 93 of the Local Government Act 2000(2003) under a scheme known as “Supporting People” or section 91 of the Housing (Scotland) Act 2001.

(2) In sub-paragraph (1), “benefit” means—

- (a) attendance allowance under section 64 of the Act;
- (b) disability living allowance;
- (c) personal independence payment;
- (d) an AFIP;
- (e) income support;
- (f) income-based jobseeker's allowance;
- (g) state pension credit;
- (h) housing benefit;
- (i) council tax benefit;
- (j) child tax credit;
- (k) an increase of a disablement pension under section 104 of the SSCBA (increase where constant attendance is needed), and any further increase of such a pension under section 105 of the Act (increase for exceptionally severe disablement);
- (l) any amount included on account of the applicant's exceptionally severe disablement or need for constant attendance in a war disablement pension or a war widow's or widower's pension;
- (m) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (n) working tax credit; or
- (o) income-related employment and support allowance.

22.—(1) Subject to sub-paragraph (3), any payment of £5,000 or more which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and which has been received by the applicant in full on or after the day on which he became entitled to support under this scheme.

- (2) Subject to sub-paragraph (3), the total amount of any payments disregarded under—
- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987;
 - (b) paragraph 12(2) of Schedule 8 to the Jobseeker’s Allowance Regulations 1996;
 - (c) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006;
 - (d) paragraph 20A of Schedule 5 to the State Pension Credit Regulations 2002,
 - (e) paragraph 11(2) of Schedule 9 to the Employment and Support Allowance Regulations 2008,

where the award in respect of which the payments last fell to be disregarded under those Regulations either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) has effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of support under the authority’s scheme during which the relevant sum or, where it is paid in more than one instalment, the first instalment of that sum is received; and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the previous award ends, such further awards until the end of the last such award, provided that, for such further awards, the applicant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of his death;

“official error”—

- (a) where the error relates to housing benefit, or council tax benefit (in respect of any period before 1st April 2013), has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(204); and
- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the application for support under this scheme was made;

“relevant benefit” means any benefit specified in paragraph 21(2); and

“the relevant sum” means the total amount referred to in sub-paragraph (1).

23. Where a capital asset is held in a currency other than Sterling, any banking charge or commission payable in converting that capital into Sterling.

24. The value of the right to receive income from an occupational pension scheme or a personal pension scheme.

25. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 6 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.

26. The dwelling occupied as the home; but only one dwelling is to be disregarded under this paragraph.

27.—(1) Subject to sub-paragraph (2), where an applicant falls within class C (alternative maximum council tax support: pensioners), the whole of his capital.

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

28. Where a person elects to be entitled to a lump sum under Schedule 5 or 5A to SSCBA or under Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005, or is treated as having made such an election, and a payment has been made pursuant to that election, an amount equal to—

- (a) except where sub-paragraph (b) applies, the amount of any payment or payments made on account of that lump sum;
- (b) the amount of that lump sum,

but only for so long as that person does not change that election in favour of an increase of pension or benefit.

29. Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments);
- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services);
- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care);
- (d) Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972(**205**) (general social welfare); or
- (e) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002(**206**) (direct payments).

PART 2

Capital disregarded only for the purposes of determining deemed income

30. The value of the right to receive any income under a life interest or from a life rent.

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

32. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

33. Where property is held under a trust, other than—

- (a) a charitable trust within the meaning of the Charities Act 1993; or
- (b) a trust set up with any payment to which paragraph 16 applies,

and under the terms of the trust, payments fall to be made, or the trustees have a discretion to make payments, to or for the benefit of the applicant or the applicant's partner, or both, that property.

SCHEDULE 10

Capital disregards: persons who are not pensioners

1. Any payment made to the applicant in respect of any child care, travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Work for Your Benefit Scheme but only for 52 weeks beginning with the date of receipt of the payment.

2. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Mandatory Work Activity Scheme but only for 52 weeks beginning with the date of receipt of the payment.

3. Any payment made to the applicant in respect of any travel or other expenses incurred, or to be incurred, by him in respect of his participation in the Employment, Skills and Enterprise Scheme but only for 52 weeks beginning with the date of receipt of the payment.

4. The dwelling together with any garage, garden and outbuildings, normally occupied by the applicant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, but, notwithstanding paragraph 33 (calculation of income and capital of members of applicant's family and of a polygamous marriage), only one dwelling is to be disregarded under this paragraph.

5. Any premises acquired for occupation by the applicant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the applicant to obtain possession and commence occupation of the premises.

6. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the applicant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the applicant to complete the purchase.

7. Any premises occupied in whole or in part—

- (a) by a partner or relative of a single applicant or any member of the family as his home where that person has attained the qualifying age for state pension credit or is incapacitated;
- (b) by the former partner of the applicant as his home; but this provision does not apply where the former partner is a person from whom the applicant is estranged or divorced or with whom he had formed a civil partnership that has been dissolved.

8. Where an applicant is on income support, an income-based jobseeker's allowance or an income-related employment and support allowance, maximum award of universal credit the whole of his capital.

9. Where the applicant is a member of a joint-claim couple for the purposes of the Jobseekers Act 1995 and his partner is on income-based jobseeker's allowance, the whole of the applicant's capital.

10. Any future interest in property of any kind, other than land or premises in respect of which the applicant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

11.—(1) The assets of any business owned in whole or in part by the applicant and for the purposes of which he is engaged as a self-employed earner, or if he has ceased to be so engaged, for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the applicant where—

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

- (b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged or re-engaged in that business,

for a period of 26 weeks from the date on which the application for support under this scheme is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

(3) In the case of a person who is receiving assistance under the self-employment route, the assets acquired by that person for the purpose of establishing or carrying on the commercial activity in respect of which such assistance is being received.

(4) In the case of a person who has ceased carrying on the commercial activity in respect of which assistance was received as specified in sub-paragraph (3), the assets relating to that activity for such period as may be reasonable in the circumstances to allow for disposal of any such asset.

12.—(1) Subject to sub-paragraph (2), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) any payment specified in paragraphs 11, 13 or 14 of Schedule 8;
- (b) an income-related benefit under Part 7 of the SSCBA;
- (c) an income-based jobseeker's allowance;
- (d) any discretionary housing payment paid pursuant to regulation 2(1) of the Discretionary Financial Assistance Regulations 2001;
- (e) working tax credit and child tax credit;
- (f) an income-related employment and support allowance,

but only for a period of 52 weeks from the date of the receipt of arrears or of the concessionary payment.

(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as “the relevant sum”) and is—

- (a) paid in order to rectify or to compensate for, an official error as defined in regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001; and
- (b) received by the applicant in full on or after 14th October 2001,

sub-paragraph (1) has effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the period of an award of support under this scheme, for the remainder of that period if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the period of an award of support under this scheme” means—

- (a) the award in which the relevant sum is first received (or the first part thereof where it is paid in more than one instalment); and
- (b) where that award is followed by one or more further awards which, or each of which, begins immediately after the end of the previous award, such further award provided that for that further award the applicant—
 - (i) is the person who received the relevant sum; or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death.

13. Any sum—

- (a) paid to the applicant in consequence of damage to, or loss of the home or any personal

possession and intended for its repair or replacement; or

- (b) acquired by the applicant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvement to the home,

which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to effect the repairs, replacement or improvement.

14. Any sum—

- (a) deposited with a housing association as defined in section 1(1) of the Housing Associations Act 1985 as a condition of occupying the home;
- (b) which was so deposited and which is to be used for the purchase of another home,

for the period of 26 weeks or such longer period as may be reasonable in the circumstances to enable the applicant to complete the purchase.

15. Any personal possessions except those which have been acquired by the applicant with the intention of reducing his capital in order to secure entitlement to support under this scheme or to increase the amount of that support.

16. The value of the right to receive any income under an annuity or the surrender value (if any) of such an annuity.

17. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the applicant or applicant's partner, the value of the trust fund and the value of the right to receive any payment under that trust.

18.—(1) Any payment made to the applicant or the applicant's partner in consequence of any personal injury to the applicant or, as the case may be, the applicant's partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the applicant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the applicant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the applicant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which an applicant no longer possesses a payment or a part of it include where the applicant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the applicant are to be construed as including references to his partner (where applicable).

19. The value of the right to receive any income under a life interest or from a life rent.

20. The value of the right to receive any income which is disregarded under paragraph 15 of Schedule 7 or paragraph 29 of Schedule 8.

21. The surrender value of any policy of life insurance.

22. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

23. Any payment made by a local authority in accordance with section 17, 23B, 23C or 24A of the Children Act 1989 or, as the case may be, section 12 of the Social Work (Scotland) Act 1968 or sections 22, 29 or 30 of the Children (Scotland) Act 1995 (provision of services for children and their families and advice and assistance to certain children).

24.—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the applicant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the applicant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the applicant.

25. Any—

- (a) social fund payment made pursuant to Part 8 of the SSCBA (the social fund); or
- (b) occasional assistance.

26. Any refund of tax which falls to be deducted under section 369 of the Income and Corporation Taxes Act 1988 (deduction of tax from certain loan interest) on a payment of relevant loan interest for the purpose of acquiring an interest in the home or carrying out repairs or improvements to the home.

27. Any capital which by virtue of paragraph 55 or 81 (capital treated as income: persons who are not pensioners, treatment of student loans) is to be treated as income.

28. Where any payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

29.—(1) Any payment made under or by the Trusts, the Fund, the Eileen Trust, MFET Limited, the Independent Living Fund (2006), the Skipton Fund, the Caxton Foundation or the London Bombings Relief Charitable Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced or with whom he has formed a civil partnership that has not been dissolved or, where that person has died, had not been dissolved at the time of that person's death;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person which derives from a payment made under or by any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia or who is a qualifying person;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the applicant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the applicant's family.

(4) Sub-paragraph (3) does not apply if—

- (a) the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, or

- (b) where the partner or former partner and that person have formed a civil partnership, the civil partnership has not been dissolved or, if either of them has died, had not been dissolved at the time of the death.

(5) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced or with whom he has formed a civil partnership that has not been dissolved, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—

- (i) to that person's parent or step-parent; or
- (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(6) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under or by any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced or with whom he had formed a civil partnership that had not been dissolved, nor any child or young person who was or had been a member of his family; and

- (b) the payment is made either—

- (i) to that person's parent or step-parent; or
- (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(7) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.

(8) For the purposes of sub-paragraphs (2) to (6), any reference to the Trusts is to be construed as including a reference to the Fund, the Eileen Trust, MFET Limited, the Skipton Fund, the Caxton Foundation, and the London Bombings Relief Charitable Fund.

30.—(1) Where an applicant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from, or dissolution of his civil partnership with, his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied.

(2) In this paragraph "dwelling" includes any garage, garden and outbuildings, which were formerly occupied by the applicant as his home and any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated.

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

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

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

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

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

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

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

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

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

39. Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.

40. Any payment in consequence of council tax support under section 13 of the 1992 Act (support of liability for council tax), but only for a period of 52 weeks from the date of the receipt of the payment.

41. Any grant made in accordance with a scheme made under section 129 of the Housing Act 1988(207) or section 66 of the Housing (Scotland) Act 1988(208) (schemes for payments to assist local housing authority and local authority tenants to obtain other accommodation) which is to be used—

- (a) to purchase premises intended for occupation as his home; or
- (b) to carry out repairs or alterations which are required to render premises fit for occupation as his home,

for a period of 26 weeks from the date on which he received such a grant or such longer period as is reasonable in the circumstances to enable the purchase, repairs or alterations to be completed and the applicant to commence occupation of those premises as his home.

42. Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

43.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

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

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

44. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.

45. Any payment made under Part 8A of the SSCBA (entitlement to health in pregnancy grant).

46. Any payment made either by the Secretary of State for Justice or by Scottish Ministers under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.

47. Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(**208**) to assist disabled persons to obtain or retain employment despite their disability.

48. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(**209**) to homeworkers assisted under the Blind Homeworkers' Scheme.

49.—(1) Removed

(2) Removed

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

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

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

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

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

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

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

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

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

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

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

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

55.—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992;
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002 (power of Secretary of State and the Welsh Ministers to give financial assistance for purposes related to education or childcare, and allowances in respect of education or training); or
 - (ii) regulations made under section 181 of that Act; or
- (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance or other payment made pursuant to any provision specified in sub-paragraph (1).

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

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

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

- (a) the applicant;
- (b) the applicant’s partner;
- (c) the applicant’s deceased spouse or deceased civil partner; or
- (d) the applicant’s partner’s deceased spouse or deceased civil partner,

by the Japanese during the Second World War, £10,000.

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

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

(2) Where a trust payment is made to—

- (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph applies for the period beginning on the date on which the trust payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or
 - (bb) attains the age of 20,

whichever is the latest.

(3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made or of any payment out of the estate of a person to whom a trust payment has been made, which is made to an applicant or a member of an applicant's family who is—

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

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to—

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending two years after that date; or
- (c) person referred to in sub-paragraph (3)(c), that sub-paragraph applies for the period beginning on the date on which that payment is made and ending—
 - (i) two years after that date; or
 - (ii) on the day before the day on which that person—
 - (aa) ceases receiving full-time education; or

(bb) attains the age of 20,
whichever is the latest.

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

- (a) being the diagnosed person's partner;
- (b) being a member of a diagnosed person's family;
- (c) acting in place of the diagnosed person's parents,

at the date of the diagnosed person's death includes a person who would have been such a person or a person who would have been so acting, but for the diagnosed person residing in a care home, an Abbeyfield Home or an independent hospital on that date.

(6) In this paragraph—

“diagnosed person” means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeld-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeld-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

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

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

during the Second World War.

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

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

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

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

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

Endnotes

- (1) 1996 c.18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c.22) and amended by the Work and Families Act 2006 (c.18), Schedule 1, paragraphs 33 and 34.
- (2) 2004 c.32.
- (3) 1992 c.4. See sections 64 to 67 of that Act in relation to attendance allowance; relevant amendments are referenced elsewhere in these Regulations.
- (4) S.I. 1983/686; relevant amending instruments are S.I. 1984/1675, 2001/420.
- (5) 2007 c.3. Section 989 defines basic rate by reference to section 6(2) of that Act. Section 6(2) was amended by section 5 of the Finance Act 2008 (c.9) and section 6 of, and paragraphs 1 and 2 of Schedule 2 to, the Finance Act 2009 (c.10).
- (6) 1995c.18.
- (7) 2002c.16.
- (8) 2007c.5.
- (9) 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008 (c.14).
- (10) 2001 asp 8.
- (11) S.I. 2003/431 (N.I. 9).
- (12) Section 141 was amended by section 1 of the Child Benefit Act 2005 (c.6).
- (13) 2002 c.21; section 8 is repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 1 (not yet in force).
- (14) 2002 c.21.
- (15) 2007 c.5. Part 1 concerns employment and support allowance; relevant amendments are referenced elsewhere in these Regulations.
- (16) 1992 c.4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c.30) and repealed by section 90 of the Welfare Reform Act 2012 (not yet in force).
- (17) 2002 c.7; that definition was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.
- (18) Section 2(1)(a) was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraphs 169 and 171 (c.1).
- (19) Section 17A was inserted by the Welfare Reform Act 2009 (c.24), section 1 and amended by the Welfare Reform Act 2012 (c.5), Schedule 7, paragraphs 1 and 4, and Schedule 14, Parts 1 and 3 (not yet in force). The section is repealed by Part 4 of Schedule 14 to that Act (not yet in force).
- (20) 1999 c.30.
- (21) S.I. 2011/517.
- (22) 1995 c.18. Section 1(4) was amended by the Welfare Reform and Pensions Act 1999, Schedule 7, paragraphs 1 and 2(1) and (4); the Civil Partnership Act 2004 (c.33); section 4 of the

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

(23) 2006 c.41. The definition of “health service hospital” has been amended by the Health and Social Care Act 2012 (c.7), Schedule 4, paragraph 138 (not yet in force).

(24) 2000 c.14; section 2 was amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraphs 1 and 3.

(25) 1978 c.29; section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(26) Section 2(1)(b) is amended by the Welfare Reform Act 2012, Schedule 23, paragraph 24 (not yet in force); section 4 is repealed by Part 1 of Schedule 14 to that Act (not yet in force).

(27) 1996 c.18.

(28) 1972 c. 70. The definition of local authority was amended by section 102 of, and paragraph 8 of Schedule 16 and Schedule 17 to, the Local Government Act 1985. Other amendments have been made to that definition but they are not relevant to these Regulations.

(29) 1972 c.70. See section 270(1) of that Act for the definition of “local authority”; a relevant amendment was made to that definition by the Local Government Act 1985 (c.51), Schedule 17.

(30) 1993 c.48. The definition of “occupational pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by S.I. 2007/3014.

(31) 1996 c. 18; sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22) and sections 80AA and 80BB were inserted by section 3 of the Work and Families Act 2006 (c. 18). Relevant regulations made under these sections are S.I. 2002/2788 and S.I. 2003/921 (made under sections 80A and 80B) and S.I. 2010/1055 and S.I. 2010/1059 (made under sections 80AA and 80BB).

(32) 1995 c.26; paragraph 1 has been amended by the State Pension Credit Act 2002 (c.16), Schedule 2, paragraph 39; the Welfare Reform Act 2007, Schedule 3, paragraph 13; the Pensions Act 2007 (c.22), Schedule 3, paragraph 4; and section 1 of the Pensions Act 2011 (c.19).

(33) 2012 c.5.

(34) 1993 c.48; the definition of “personal pension scheme” was substituted by section 239 of the Pensions Act 2004 (c.35) and amended by the Finance Act 2007 (c.11), Schedule 20, paragraph 23 and Schedule 27, Part 3.

(35) 1988 c.1.

(36) 2004c.12.

(37) 2002c.16.

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

(39) 2002 c.16. Section 3 was amended by the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 140 and S.I. 2002/1792.

(40) 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c.19) and repealed in part by the Employment Act 1989 (c.38), Schedule 7, Part 1.

(41) 1990 c.35.

(42) 1978 c.29.

(43) 1985 c.68; section 105 was amended by S.I. 1996/2325; the Government of Wales Act 1998 (c.38), Schedule 8, paragraph 5 and Schedule 16, paragraph 5, and S.I. 2010/866.

(44) 1995 c.50; section 49A was inserted in respect of Northern Ireland by S.I. 2006/312 (N.I. 1).

(45) 2010 c.15.

(46) 1999 c.27; section 3 was amended by the Local Government and Public Involvement in

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- Health Act 2007 (c.28), section 137.
- (47) 2001 asp 10.
- (48) 2006 c.41.
- (49) 2006 c.42.
- (50) 2008 c.14; section 4 has been amended by section 189 of the Health and Social Care Act 2012 (c.7) but those amendments are not yet in force.
- (51) 2008 c.17; section 193 was amended by the Localism Act 2011 (c.20), Schedule 17, paragraphs 1 and 4 and Schedule 25, Part 27.
- (52) 1993 c.39; subsection (2) was amended by S.I. 1996/3095, 1999/1663.
- (53) 1992 c.4.
- (54) 2002 c.16.
- (55) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25 and amended by the Employment Act 1989 (c.38), Schedule 7, Part 1.
- (56) 2012 c.5.
- (57) 2003 c.1; subsection (2) was inserted by the Finance Act 2005 (c.7), section 19.
- (58) 1991 c.56.
- (59) 2002 asp 3; section 29A was substituted together with sections 29B to 29G for section 29 as originally enacted by section 21 of the Water Services etc. (Scotland) Act 2005 (asp 3).
- (60) 2002 c.21.
- (61) Section 142 was amended by section 1 of the Child Benefit Act 2005 (c.6).
- (62) 1995 c.18; section 19 (together with sections 19A to 19C), has been substituted by section 46 of the Welfare Reform Act 2012 (c.5) but that amendment is not yet in force (sections 19A to 19C are however); section 17A has been repealed by Part 4 of Schedule 14 to that Act although that provision is not yet in force. In the meantime amendments have been made to section 17A by sections 48 and 59 of, and Schedules 7 and 14 to, the 2012 Act.
- (63) 2001 c.11; section 6B was amended by sections 9, 24 and 58 of, and paragraphs 9 and 10 of Schedule 2 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c.24); sections 31, 113, 118, 119, 121 and 147 of, paragraphs 56 and 58 of Schedule 2, paragraphs 15 and 16 of Schedule 3, Parts 1 and 12 of Schedule 14, to the Welfare Reform Act 2012 (c.5), of which only those made by section 113 (to subsection (1)(b)) are in force. Section 7 was amended by section 14 of, and Part 3 of Schedule 3 to, the State Pension Credit Act 2002 (c.16); sections 28 and 49 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007 (c.5); sections 9, 24 and 58 of, and paragraphs 9 and 11 of Schedule 2, Part 1 of Schedule 4 and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (of which those made by sections 9, 31 and Schedule 7 are not yet in force); S.I. 2011/2298; sections 31, 118, 119 and 147 of, and paragraphs 56 and 59 of Schedule 2, paragraphs 15 and 17 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, none of which are yet in force. Section 8 has been repealed by section 147 of, and Part 1 of Schedule 14, to the Welfare Reform Act 2012, but that repeal is not yet in force. Amendments have also been made by sections 1, 24, and 58 of, and Part 1 of Schedule 4 and Part 3 of Schedule 7 to, the Welfare Reform Act 2009; sections 31, 48, 113 and 147 of, and paragraphs 56 and 60 of Schedule 2, paragraph 12 of Schedule 7 and Part 12 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force. Section 9 was amended by section 14 of, and Part 3 of Schedule 2 to, the State Pension Credit Act 2002; sections 28 of, and paragraph 23 of Schedule 3 to, the Welfare Reform Act 2007; sections 9 and 58 of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009, none of which are in force; sections 31, 113 and 147 of, and paragraphs 56 and 61 of Schedule 2 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012, of which only those made by section 113 are in force.
- (64) 2007 c.5.
- (65) S.I. 2002/1792.

- (66) See paragraphs 13 to 15 of this scheme.
- (67) See paragraphs 16 to 18 of this scheme.
- (68) See paragraphs 18A to 18B of this scheme
- (69) Section 145A inserted by the Tax Credits Act 2002 (c.21), section 55(1).
- (70) 2000 c.35.
- (71) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but not yet in force in Wales. Section 59(1)(a) was amended by section 49 of the Children Act 2004 (c.31) and paragraph 2 of Schedule 1 to the Children and Young Persons Act 2008.
- (72) 2002 c.38.
- (73) S.I. 2009/154.
- (74) S.I. 1987/2203 (N.I. 22).
- (75) 1955 c.18.
- (76) 1955 c.19.
- (77) 1957 c.53.
- (78) 1958 c.40.
- (79) 1968 c.49.
- (80) 1969 c.46.
- (81) 1969 c.54.
- (82) 1973 c.18.
- (83) 1975 c.72; this Act was repealed in respect of England and Wales by Schedule 15 to the Children Act 1989 (c.41). It continues to have effect in Scotland.
- (84) 1978 c.22.
- (85) 2007 asp 4.
- (86) 1986 c.55.
- (87) 1995 c.36.
- (88) 2012 c.10.
- (89) See section 6(5) of the Local Government Finance Act 1992 for the meaning of “resident” in relation to a dwelling.
- (90) 2007 c.21.
- (91) 1983 c.20.
- (92) 2003 asp 13.
- (93) 1995 c.46.
- (94) S.I. 1986/595 (N.I. 4).
- (95) 1952 c.52.
- (96) 1989 c.45.
- (97) OJ No L 158, 30.4.04, p 77.
- (98) A consolidated version of this Treaty was published in the Official Journal on 30.3.2010 C 83.

- (99) 1971 c.77.
- (100) 1999 c.33.
- (101) Relevant amendments to section 94(1) have been made by section 44 of the Nationality, Immigration and Asylum Act 2002 (c.41) but those provisions are not in force. Other amendments have been made but they are not relevant to these Regulations.
- (102) S.I. 2006/1003; relevant amending instruments are S.I. 2011/544, 2012/1547, 2012/2560.
- (103) See Part 10, Chapters 1 and 7, of this scheme in relation to the capital of an applicant and the calculation of tariff income from capital.
- (104) Including pensioners in polygamous marriages, by virtue of paragraph 5 of the scheme.
- (105) S.I. 2005/3360.
- (106) The amount of the components is set out in Part 6 of that Schedule.
- (107) S.I. 2008/794.
- (108) S.I. 2005/3360
- (109) 2012 c.5.
- (110) As to which, see paragraphs 13, 16 and 18(A) respectively.
- (111) See paragraph 14
- (112) See paragraphs 15
- (113) See paragraph 22A for the capital limit for eligibility of £16,000.
- (114) Section 13A is substituted by section 10 of the Local Government Finance Act 2012 (c.17).
- (115) S.I. 2011/517.
- (116) See paragraph 71 for the calculation of income from capital so far as relating to pensioners.
- (117) Part 12ZA was inserted by section 2 and Part 12ZB was inserted by section 4 of the Employment Act 2002 (c.22).
- (118) S.I. 2006/606.
- (119) 1979 c.41.
- (120) 1837 c.2.
- (121) 1937 c.32.
- (122) 1952 c.37.
- (123) 1972 c.7.
- (124) 1975 c.82.
- (125) S.I.1979/597.
- (126) Section 30DD was inserted by the Welfare Reform and Pensions Act 1999 (c.30), section 63; section 30E was inserted by the Social Security (Incapacity for Work) Act 1994 (c.18), section 3. Both sections are repealed by the Welfare Reform Act 2007 (c.5), Schedule 8 (not yet in force).
- (127) S.I. 2001/1004.
- (128) 1996 c.17.
- (129) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In

section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(130) 1989 c.41; section 23 was substituted by sections 22A to 22F by section 8(1) of the Children and Young Persons Act 2008 (c.23). Section 22C is in force in England but is not yet in force in Wales.

(131) 1995 c.36; section 26 was amended by paragraph 1 of Schedule 3 to the Adoption and Children (Scotland) Act 2007 (asp 4).

(132) S.I. 2009/210.

(133) 1948 c.29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c.19).

(134) 2006 c.41. The Commissioning Board is established under section 1H of that Act (inserted by section 9 of the Health and Social Care Act 2012 (c.7)); section 14D was inserted by section 25 of the 2012 Act.

(135) 2006 c.42.

(136) 1965 c.51.

(137) S.I. 2005/454.

(138) 2004 c.12.

(139) 1980 c.46.

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

(141) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(142) S.I. 2008/794.

(143) 1994 c.21.

(144) S.I. 1996/207.

(145) 1980 c.46.

(146) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.

(147) S.I. 1987/1967.

(148) S.I. 1975/556.

- (149) S.I. 1999/3110.
- (150) 2010 c.1.
- (151) S.I. 2010/2574 (W.214).
- (152) 2001 asp 8.
- (153) 2006 c.21.
- (154) S.I. 2011/581.
- (155) S.I. 2003/237.
- (156) S.I. 2009/210.
- (157) S.I. 2010/781; amended by S.I. 2012/1513.
- (158) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
- (159) 1978 c.29.
- (160) S.I. 1972/1265 (N.I. 14).
- (161) 1992 c.4; section 164 was amended by paragraph 12 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and section 20 of, and paragraph 6 of Schedule 7 and paragraph 1 of Schedule 8 to, the Employment Act 2002 (c.22).
- (162) S.I. 1987/1967; Schedule 1B was inserted by S.I. 1996/206.
- (163) S.I. 1975/529.
- (164) 2007 c.3; the heading and subsection (1) of section 35 were amended by section 4 of the Finance Act 2012 (c.14) (“2012 Act”); subsections (2) and (4) were inserted by section 4 of the Finance Act 2009 (c.10). In section 36, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009. In section 37, the heading and subsection (2) were amended by, subsection (1) substituted by, and subsection (2A) inserted by section 4 of the 2012 Act; subsection (2) has also been amended by S.I. 2011/2926 and section 4 of the Finance Act 2009.
- (165) See paragraph 22A for the capital limit for eligibility of £16,000.
- (166) See Chapters 1 and 7 of Part 10 in particular, and the capital to be disregarded in accordance with Schedule 9.
- (167) Income from capital is taken into account in calculating the income of an applicant who is a pensioner; see paragraph 39(1)(i).
- (168) 1992 c.13.
- (169) 1980 c.44.
- (170) 2009 c.22.
- (171) S.I. 2003/1994; relevant amending instrument is S.I. 2008/1477.
- (172) 1998 c.30.
- (173) See paragraph 21 as to persons treated as not being in Great Britain.

- (174) 1988 c.40.
- (175) 1998 c.30.
- (176) See also paragraph 103 in relation to persons moving into the area of the authority from another authority's area.
- (177) S.I. 1987/1967.
- (178) Section 11A was inserted by section 75(1) of the Local Government Act 2003 (c.26).
- (179) 2000 asp 4.
- (180) 1971 c.27.
- (181) 1985 c.29.
- (182) As to which, see paragraph 21.
- (183) For provisions requiring a pension fund holder to provide information to the billing authority see regulations under section 14A of the Local Government Finance Act 1992.
- (184) See paragraphs 8 to 10 of Schedule 1.
- (185) 2000 asp 4.
- (186) 2001 c.11.
- (187) S.I. 1979/597.
- (188) S.I. 2002/2005
- (189) 2006 c.41; paragraph 9 has been amended by sections 17(10) of the Health and Social Care Act 2012 (c.7) (to replace references to the Secretary of State with references to clinical commissioning groups), but those provisions are not yet fully in force.
- (190) 1978 c.29.
- (191) S.I. 1972/1265 (N.I. 14).
- (192) 2001 c.11.
- (193) 2005 asp 5.
- (194) S.I. 2011/517.
- (195) 2004 c.21.
- (196) S.I. 1999/2734.
- (197) 1990 c.35.
- (198) 2008 c.28.
- (199) 1974 c.39.
- (200) 1991 c.48.
- (201) 1944 c.10.

- (202) S.I. 2001/1167.
- (203) 2000 c.22.
- (204) S.I. 2001/1002.
- (205) S.I. 1972/12656 (N.I. 14).
- (206) 1988 c.50.
- (207) 1988 c.43.
- (208) 1944 c.10.
- (209) 1958 c.3.

COUNCIL
28 FEBRUARY 2013

CABINET RECOMMENDATION
(14 FEBRUARY 2013)

RECOMMENDATION II: **FINAL REVENUE BUDGET
AND MEDIUM TERM
FINANCIAL STRATEGY**

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HARROW COUNCIL PAY POLICY STATEMENT 2013/14

Harrow Council supports openness and accountability and is pleased to publish its Pay Policy Statement for 2013/14. In compliance with the Localism Act 2011 this statement outlines the Council's policy on pay and benefits for Council employees (excluding Schools)¹ and specifically for its senior management for 2013/14.

Context

The context for the Council's Pay Policy is the Council's Strategy for People²
http://www.harrow.gov.uk/downloads/file/11213/strategy_for_people

The Strategy for People 2013-2016 is currently being developed and will reflect that the significant change experienced in recent years will continue in the foreseeable future and will be felt by all Council staff, regardless of level or role. Delivery models will continue to be developed, which will affect individual members of staff as we see more services delivered with partners, by private, public or third sector providers and through shared services.

The scale of the challenges facing the Council requires that our workforce and that of our partners is suitably skilled and motivated. At the time of writing this statement the Council is in the process of drafting its new Strategy for People which, when completed, will be published on the Council's website.

The Council's new Strategy for People will set out the Council's strategy to ensure this collective workforce is able to meet those challenges and deliver against the priorities set out in this plan.

The new Strategy will therefore remain focused on ensuring our workforce has the capability, competence and confidence to deliver quality services to our community and builds on the foundations of our previous Strategy to achieve this through:

- Recruiting and retaining the **Right People**
- Who have the **Right Skills**
- Working on the **Right Things**
- And are supported to work in the **Right Way**
- With the **Right Motivation**

The Council seeks to reduce income inequality and ensure that the pay, terms and conditions of Council employees comply with the Council's duties under the Equality Act. The Council recognises that a significant proportion of the workforce lives locally³ and that therefore its pay policy helps support a strong local economy.

¹ The Pay Accountability provisions of the Localism Act 2011 do not apply to staff employed in Schools

² The Council's current Strategy for People 2010-12 was agreed by Cabinet in March 2010 a new Strategy is being developed for 2013-16

³ 60% of employees have a permanent address with a Harrow (HA) postcode

Modernising Terms & Conditions Review 2011/12

In 2011/12 the Council undertook a review of pay and terms and conditions for employees. The objectives of the review, which were agreed by Cabinet, were to:

- Modernise: to support the future needs of the Council
- Simplify: wherever possible, to make terms and conditions easier to understand and reduce administration
- Reduce cost: to reduce the costs of terms and conditions of employment as part of its plan to make savings over the next 3 years
- Give greater choice: to continue to have core terms and conditions but to provide each individual with an element of choice beyond that.

The modernising review was completed in 2012 and the Council reached a collective agreement with the relevant recognised trade unions, which introduced changes to the pay, terms and conditions of all employees covered by this Pay Policy Statement, including those of senior management, from January 2013.

The collective agreement is published at:

http://www.harrow.gov.uk/downloads/file/13003/collective_agreement-novemeber_2012

The changes introduced through the collective agreement are in accordance with the Council's Pay Policy Statement 2012/13 and include the following key provisions:

- 2.5% pay cut for the Chief Executive and Corporate Directors
- 1% pay cut for staff earning £21,375 and above
- Revised grading structure so that the Council's lowest paid employees are paid not less than the London Living Wage.⁴
- A pilot scheme making incremental pay progression subject to performance
- No enhancements for overtime or weekend working except for Bank Holidays and night work
- Reduced redundancy compensation payments
- Improved salary sacrifice schemes and other employee benefits

Council Pay Rates / Scales

The Council considers it important to be able to locally determine pay rates. This enables it to respond to regional and local labour market conditions. The Council benchmarks its pay rates with other London Boroughs to ensure that it is able to recruit and retain qualified and competent employees.

⁴ London Living Wage is set periodically by the Mayor of London and rose to £8.55 per hour in November 2012.

The following Council pay scales were revised by the Council in January 2013 as a result of the modernising review:

- Harrow pay scale
- Senior Professional & Managerial pay scale
- Chief Officer pay scales
- Chief Executive pay scale

The Council also revised the pay scales for employees who are Education Psychologists (Soulbury), Nursery Nurses and Youth & Community Workers.

The January 2012 pay scales are published at:

http://www.harrow.gov.uk/downloads/download/3321/harrow_pay_scale

Remuneration of Senior Management (Chief Officers)

The Council defines its senior management as the top 3 tiers in the management structure commencing with the Chief Executive (Tier 1), Corporate Directors (Tier 2) and Divisional Directors (Tier 3), this includes all statutory and non-statutory Chief Officer and Deputy Chief Officer posts.

A revised senior management structure⁵ was implemented during 2012 and appointments have been made to all posts in the new structure.

The current senior management structure including employee payments, names, job descriptions, responsibilities, budgets and numbers of staff is published at:

http://www.harrow.gov.uk/info/200026/council_departments/2172/harrow_council_organisation_and_managers/2

http://www.harrow.gov.uk/downloads/download/2623/harrow_council_senior_managers_salaries

From April 2013 the Council will take over specific public health function from the NHS and is required to appoint a statutory Chief Officer post of Director of Public Health. The post holder will be paid on NHS pay scales and the information published on the Council's website will be updated.

The Council's policy is to minimise the senior management pay bill. The pay rates and numbers of senior managers reduced in 2012/13. Further reductions in the number of senior managers are planned.

The Council may, in exceptional circumstances, employ senior managers under contracts for services. The Council publishes details of all payments made under contracts for services in excess of £500 at:

http://www.harrow.gov.uk/info/200110/council_budgets_and_spending/2226/council_spending

Remuneration of Lowest Paid Employees

The Council defines its lowest paid employees as those paid at the lowest pay spine column point on the lowest Harrow pay grade, excluding trainees and apprentices. This changed as a result of the modernising review and from 1 April 2013 will be spinal column point 1 of grade 1 on the Harrow pay scale. This means the Council's lowest paid employees are paid not less than the London Living Wage.

⁵ A revised senior management structure was agreed by Cabinet in December 2011

Pay Multiple

The 'pay multiple' is the ratio between the highest paid salary and the median average salary of the Council's workforce. The Council's highest paid employee is the Chief Executive and the current pay multiple is published at:

http://www.harrow.gov.uk/downloads/file/11582/senior_manager_salaries_2012-13

Pay Grading

In 2004 the Council entered into a single status agreement with its recognised trade union, introducing common job evaluation schemes⁶ and pay scales for the Council's former manual workers, administrative, professional, technical and clerical employees with the exception of Education Psychologists, Nursery Nurses, Youth & Community Workers, Chief Officers and the Chief Executive.

In 2007 job evaluation was extended to include Chief Officers.

From April 2013 the Council will take over specific public health functions from the NHS and staff who transfer from the NHS to the Council will remain on NHS grades and pay scales.

Pay on Appointment

All employees, including Chief Officers are normally appointed on the lowest pay spine column point for their job evaluated grade. In exceptional circumstances employees may be appointed at a higher point within the evaluated grade.

The Council delegates authority to the Chief Officer Employment Panel to make recommendations to Council on the appointment of the Head of Paid Service and to make appointments of Chief Officers in accordance with the Council's Pay Policy.

Pay Progression

All employees are able to incrementally progress through the pay spine column points for their job evaluated grade.

Progression will normally be one increment (pay spine column point) on the 1st of April each year until they reach the top of their grade.

Progression for Chief Officers is subject to the following qualifications:

- i. increments may be accelerated within a Chief Officer's scale at the discretion of the council on the grounds of special merit or ability.
- ii. an increment may be withheld following an adverse report on a Chief Officer (subject to that Chief Officer's right of appeal). Any increment withheld may be paid subsequently if the Chief Officer's services become satisfactory.

The criteria for pay progression for other staff was changed as a result of the modernising review so that progression for all staff is now subject to satisfactory performance.

Performance Related Pay

⁶ The Greater London Provincial Council (GLPC) Scheme is used for all Harrow grade jobs and the Hay Scheme for senior professional and managerial jobs

Council employees including the Chief Executive and Chief Officers do not currently receive performance related payments or bonuses.

The Council operates a Reward and Recognition Scheme for employees who, subject to meeting the criteria of the scheme, may receive payments of £250 or £500. Details of Reward and Recognition payments to senior management are published at:

http://www.harrow.gov.uk/downloads/file/11582/senior_manager_salaries_2012-13:

National / Regional Pay Agreements

The Council supports the national (JNC/NJC⁷) and regional (GLPC) collective bargaining arrangements for pay and conditions of service and the pay scales for all employees, including the Chief Executive and Chief Officers, are increased in line with national and regional pay agreements.

The last pay agreement increasing pay for the Chief Executive and Chief Officers was implemented in 2008/9.

The last pay agreement increasing pay for all other non-teaching employees was implemented in 2009/10.

Market Supplements

The Council may apply market supplement payments to jobs with recruitment or retention difficulties. Details of market supplement payments to senior management are published at:

http://www.harrow.gov.uk/downloads/file/11582/senior_manager_salaries_2012-13

Fees for Election Duties

The Council's policy for payment of fees for election duties is published at:

http://www.harrow.gov.uk/info/687/elections_information/2560/election_fees_and_charges

Details of fees for election duties paid to senior management are published at:

http://www.harrow.gov.uk/downloads/file/11582/senior_manager_salaries_2012-13

Pension

All employees are able to join the Local Government Pension Scheme and receive benefits in accordance with the provisions of that Scheme as applied by the Council. Details of the Council's policy and decisions in respect of discretionary elements of the Scheme are published at:

http://www.harrow.gov.uk/downloads/download/3317/pension_fund_statement

From April 2013 the Council will take over specific public health functions from the NHS and staff who transfer from the NHS to the Council will continue to be members of the NHS Pension Scheme and receive benefits in accordance with the provisions of that Scheme.

Other Terms and Conditions of Employment

The pay, terms and conditions of council employees are set out in employee handbooks. Handbooks are produced for all employees, including managers and senior professionals,

⁷ Joint Negotiating Committee / National Joint Council

Chief Officers and the Chief Executive and the latest editions are published at:
http://www.harrow.gov.uk/downloads/download/3343/employee_handbooks

Payments on Termination of Employment

In the event that the Council terminates the employment of an employee on the grounds of redundancy or efficiency of the service they will be entitled to receive compensation and benefits in accordance with the Council's Redundancy and Early Retirement schemes, which are published at:

http://www.harrow.gov.uk/downloads/download/3343/employee_handbooks

http://www.harrow.gov.uk/downloads/download/3306/early_retirement_scheme

The Council's Redundancy scheme was changed as a result of the modernising review and compensation payments to employees will reduce from 2014.

Where payments on termination amount to £100,000 or greater, full council will be asked to determine whether it wishes to vote on the decision.

Details of redundancy compensation payments paid to senior management are published at:
http://www.harrow.gov.uk/downloads/file/11582/senior_manager_salaries_2012-13

Re-employment of Employees

Section 7 of the Local Government and Housing Act 1989 requires that every appointment to paid office or employment in a local authority shall be made on merit.

Further Information

For further information on the Council's pay policy please contact the Council's Human Resources & Development Service email StaffBenefits@harrow.gov.uk DD 0208 424 1110